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PART I

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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list of cfr parts affected

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

rules and regulations

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[967.310]

PART 967—CELERY GROWN IN FLORIDA

Handling Regulation

This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1974–75 season, with the objective of assuring adequate supplies and orderly markets.

Notice of rule making was published in the FEDERAL REGISTER June 26, 1974 (39 FR 23063) that the Secretary of Agriculture was considering the issuance of a handling regulation designed to promote orderly marketing of celery grown in Florida. The proposal was discussed at a public meeting June 11, 1974, in Orlando, after being unanimously recommended by the Florida Celery Committee. This committee was established under Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967). This program regulates the handling of celery grown in Florida and is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views or arguments regarding the proposal with the Hearing Clerk not later than July 11, 1974. None was filed.

The regulation is based on the appraisal of expected supply and prospective market conditions for the 1974–75 season.

During recent years, annual celery production from the acreage planted in Florida and California has tended to exceed the capacity of the U.S., Canadian, and export markets. Florida's fresh market celery sales during the 1973–74 season were approximately 6.3 million crates. An estimated 2,000 acres were abandoned. Fresh sales totaled about 7.4 million crates in 1972–73.

The 1974–75 Marketable Quantity is large, and willl provide ample opportunity for the industry to market the maximum number of crates at reasonable prices to consumers. However, since the quantity of celery to be marketed is well above that shipped in any prior season, the industry may have to significantly increase its efforts to stimulate consumption and to attain a reasonable return to growers for their labor and investment.

Although the Marketable Quantity is the third largest ever issued under the program, it still is more than three-quarters of a million crates smaller than the total Base Quantities of present producers. Thus, if demand should fail to increase, present Base Quality holders could be adversely affected economically. Therefore, in accordance with § 967.37 (d) (1), no reserve is established for additional Base Quantities.

On the basis of the foregoing considerations, as well as industrywide trends in the production and sales of celery, it is believed this regulation is necessary to maintain orderly marketing and will tend to effectuate the declared policy of the act.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the proposed handling regulation set forth in this section through publicity in the production area and by publication in the June 26, 1974, FEDERAL REGISTER, (2) as provided in the marketing agreement and order, this regulation applies to celery marketed during the 1974–75 season, (3) compliance with this section will not require any special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, approximately the latter part of October, (4) prompt issuance of this regulation will be beneficial to all interested parties because it should afford producers and handlers maximum time to plan their operations accordingly, and (5) no useful purpose will be served by postponing such issuance.

It is therefore ordered:

§ 967.310 Handling regulation; marketable quantity; and uniform percentage.

(a) The Marketable Quantity for the 1974–75 season is established, under § 967.36(a), as 8,353,744 crates.

(b) As provided in § 967.38(a), the Uniform Percentage for the 1974–75 season is determined as 90 percent.

(c) During the season August 1, 1974, through July 31, 1975, no handler may handle, as provided in § 967.36(b) (1), any harvested celery unless it is within the Marketable Allotment for the producer of such celery.

(d) No reserve for Base Quantities for the 1974–75 season is established.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 16, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-16676 Filed 7-19-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-GL-13; Amdt. 39-1901]

PART 39—AIRWORTHINESS DIRECTIVES

Bellanca Model 8GCBC

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive was adopted on July 2, 1974, and made effective immediately as to all known United States operators of Bellanca Model 8GCBC airplanes. The directive requires an inspection prior to further flight of the propeller for proper indexing to the crankshaft flange.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Bellanca Model 8GCBC airplanes by individual telegrams dated July 2, 1974. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation regulations to make it effective as to all persons.

BELLANCA AIRCRAFT CORPORATION. Applies to Bellanca Models 8GCBC aircraft Serial Numbers 2-74 to and including 62-74.

Before further flight, verify that the propeller is properly indexed to the crankshaft flange. This can be accomplished by removing the upper cowling and examining the aft face of the crankshaft flange to determine if the shoulders of all six bushings are seated upon the rear face of flange. If incorrectly indexed, two bushing shoulders will be approximately 1/16 inch off flange surface. If incorrect, propeller and spacer must be removed and all parts inspected for damage and replaced as necessary. If undamaged, replace spacer and propeller, assuring proper indexing to crank flange and torque six bolts to 600–720 inch pounds.

This amendment is effective July 26, 1974, and was effective July 2, 1974, for all recipients of the telegram dated

July 2, 1974, which contained this amendment.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on July 11, 1974.

R. O. ZIEGLER,
Director, Great Lakes Region.

[FR Doc.74-16642 Filed 7-19-74;8:45 am]

[Docket No. 11359; Amdt. 39-1902]

PART 39—AIRWORTHINESS DIRECTIVES

Britten Norman Models BN-2 and BN-2A Airplanes

Amendment 39-1285 (36 F.R. 17848), AD 71-19-3, requires daily inspections of the elevator trim tab on Britten Norman Models BN-2 and BN-2A airplanes for loose rivets and cracks. After issuing Amendment 39-1285, the FAA has determined that the daily inspections may be discontinued without any adverse effect on safety after the incorporation of Britten Norman Modification BN-2/NB/507. Therefore, the AD is being amended to provide for the incorporation of that modification as an alternative to the daily inspections.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation regulations, Amendment 34-1285, AD 71-19-3, is amended by adding a new paragraph (c) at the end thereof, to read as follows:

BRITTEN NORMAN. Applies to Models BN-2 and BN-2A airplanes.

* * * * *

(c) The repetitive inspections required by paragraph (a) of this AD may be discontinued after incorporation of Britten Norman Modification BN-2/NB/507 in accordance with Britten Norman Service Bulletin BN-2/SB49, dated August 20, 1971, or an FAA-approved equivalent.

This amendment, 39-1902, is effective July 27, 1974.

Issued in Washington, D.C., on July 12, 1974.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.74-16641 Filed 7-19-74;8:45 am]

[Airspace Docket No. 74-EA-35]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone

On page 17862 of the FEDERAL REGISTER for May 21, 1974, the Federal Aviation Administration published a proposed rule which would alter the Chantilly, Va., Control Zone (39 F.R. (366).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Jamaica, N.Y., on July 3, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Chantilly, Va. control zone and by substituting the following in lieu thereof:

Within a 5.5-mile radius of the center, 38°56'40" N., 77°27'24" W. of Dulles International Airport; within a 6-mile radius of the center of the airport, extending clockwise from a 063° bearing to a 160° bearing from the airport; within 2.5 miles each side of the Dulles International Airport runway 1R ILS localizer course, extending from the 5.5-mile radius zone to 0.5 miles north of the OM; within 2 miles each side of the extended centerline of Dulles International Airport runway 30, extending from the west end of runway 30 to 5.5 miles west and within 3.5 miles each side of the Dulles International Airport runway 19R ILS localizer course, extending from the 5.5-mile radius zone to 10 miles north of the OM.

[FR Doc.74-16643 Filed 7-19-74;8:45 am]

[Airspace Docket No. 74-EA-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone

On page 17236 of the FEDERAL REGISTER for May 14, 1974, the Federal Aviation Administration published a proposed rule which would alter the Weyers Cave, Va., Control Zone (39 FR 436).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on July 2, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the description of the Weyers Cave, Va. Control Zone by deleting the last sentence in the text and by substituting, "This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airman's Information Manual."

[FR Doc.74-16644 Filed 7-19-74;8:45 am]

[Airspace Docket No. 74-EA-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 16154 of the FEDERAL REGISTER for May 7, 1974, the Federal Aviation Administration published a proposed rule which would alter the White Plains, N.Y., Control Zone (39 FR 436) and Transition Area (39 FR 612).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. September 12, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on July 1, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the White Plains, N.Y. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 41°04'00" N., 73°42'33" W. of Westchester County Airport, White Plains, N.Y., extending clockwise from a 055° bearing to a 305° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 055° bearing from the airport; and within 2 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 4 miles southeast of the southeast end of Runway 16.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the White Plains, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°04'00" N., 73°42'33" W. of Westchester County Airport, White Plains, N.Y., extending clockwise from a 047°

bearing to a 307° bearing from the airport, within a 10-mile radius of the center of the airport, extending clockwise from a 307° bearing to 047° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Carmel, N.Y. VORTAC 245° and 065° radials, extending from 5.5 miles southwest to 11.5 miles northeast of the VORTAC; within 6.5 miles southwest and 4.5 miles northeast of the Westchester County Airport ILS localizer northwest course, extending from 5.5 miles southeast of the OM to 11.5 miles northwest of the OM; within 5 miles each side of the Westchester County Airport ILS localizer northwest course, extending from the 8.5-mile radius area and 10-mile radius area to 12 miles northwest of the OM; within 5 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 13 miles southeast of the southeast end of Runway 16; within 5 miles each side of the Carmel, N.Y. VORTAC 206° radial, extending from the 8.5-mile radius area and 10-mile radius area to the Carmel, N.Y. VORTAC; and within 5 miles each side of the Carmel, N.Y. VORTAC 232° radial, extending from 4 miles southwest to 10 miles southwest of the Carmel, N.Y. VORTAC, that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°31'00" N., 73°54'00" W., to 41°31'00" N., 73°30'00" W., to 41°25'00" N., 73°30'00" W., to 41°20'00" N., 73°44'00" W., to 41°18'00" N., 73°42'00" W., to 41°16'00" N., 73°45'00" W., to 41°20'00" N., 73°49'00" W., to 41°15'00" N., 73°59'30" W., to 41°00'00" N., 73°38'00" W., to 41°00'00" N., 73°54'00" W., to 41°08'10" N., 74°13'00" W., to 41°11'00" N., 74°09'00" W., to 41°12'00" N., 74°00'00" W., to 41°19'00" N., 74°00'00" W., to point of beginning.

[FR Doc.74-16647 Filed 7-19-74;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. R-393; Order 428-E]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Small Producer Certificates

JULY 15, 1974.

The Commission amends small producer certificate regulation to provide that the existence of one or more directors of an applicant producer in common with another producer shall be deemed a conclusive presumption of affiliation and control.

Section 157.40 of the regulations under the Natural Gas Act, 18 CFR 157.40, provides a procedure for the regulation of small producers of natural gas under subsections (c) and (e) of section 7 of the Natural Gas Act 52 Stat. 825, 56 Stat. 83; 15 USC 717f(c) and 56 Stat. 84, 15 USC 717f(e). Paragraph (a)(1) of § 157.40 defines "small producer". Among the incidents of said definition is the characterization that a small producer is an independent producer of natural gas as defined in § 154.91 of the regulations under the Natural Gas Act, 18 CFR 154.91, whose total jurisdictional sales on nationwide basis, together with such sales of "affiliated producers" are not in excess of 10,000,000 Mcf at 14.65 psia during any calendar year. Paragraph (a)(2) of § 157.40 defines "affiliated producers" as persons who, directly or indirectly, control, or are controlled by, or are under common control with the applicant producer and states that such control exists if the producer has the power to direct or cause the direction of, or as a matter of actual practice does direct, the management and policies of another producer such as through the offices of common directors. The Commission herein amends § 157.40(a)(2) to provide that the existence of one or more directors of an applicant producer in common with another producer shall be deemed a conclusive presumption of affiliation and control.

The Commission receives small producer applications from corporate producers which share common directors with other producers, both large and small. In such cases it is necessary for the Commission to apply the tests in § 157.40(a)(2) to determine control and affiliation in order to determine whether the applicant is a small producer within the definition in § 157.40(a)(1).

The director is a manager of a corporation. He is responsible for determining corporate policy and is usually accountable for that policy. He possesses the power and duty to govern the corporation. His power and duty exist whether he sits on a board with many or few other directors, and he should not be heard to deny the existence of power to control or general responsibility for existing policy because he is only one of many. Likewise, he should not be heard to deny that he actually controls the affairs of the corporation because he chooses not to participate actively as a director or because he is not a member of the executive committee. Whether a director does actually exercise his power and perform his duty to govern is a question of fact outside the competency of the Commission in most instances and is certainly not a matter with which the Commission should be burdened in determining whether an independent producer qualifies as a small producer.

Since control is a factor in determining affiliation and affiliation is considered in determining the qualifying volume of sales for small producers, the Commission considers it necessary to establish a policy and procedure for determining the existence of control in cases in which small producer applicants may have corporate directors in common with other producers. In furtherance of this end, the Commission will regard the existence of one or more common directors as a conclusive presumption of affiliation and control.

Paragraph (b) of § 157.40 and § 250.10 of Approved Forms, Natural Gas Act, 18 CFR 250.10, require a small producer applicant to include in its application a statement of total jurisdictional sales, which under the definition in § 157.40(a)(1) includes sales of affiliated producers. The Commission often receives small producer applications which do not set forth information as to the sales volumes of affiliated producers. Paragraph (b) and § 250.10 also require to be included in an application a statement of the names of owners with an interest of 10 percent or more and the positions of said persons in the applicant company and in any other natural gas company. The Commission often receives applications in which the names and positions of the owners are stated to be unknown or the information is omitted entirely from the applications as an indication of non-applicability. The failure to include sales volumes of affiliates and names and positions of owners may, in some instances, result from oversight or from differences in interpretation of the regulations. In other cases it may be a deliberate act of omission. In this regard, those persons filing small producer applications are reminded that the applications are required by section 7(d) of the Natural Gas Act, 56 Stat. 84, 15 USC 717f(d), and § 1.16 of the Commission's rules of practice and procedure, 18 CFR 1.16, to be verified and subscribed and that sections 20 and 21 of the Natural Gas Act, 52 Stat. 832, 15 USC 717s and 52 Stat. 833, 15 USC 717t, and other laws of the United States, 18 USC 1001 and 1621, provide severe sanctions for international misrepresentations.

With respect to an applicant's statement as to its lack of knowledge as to its owners with an interest of 10 percent or more and their positions in applicant's company, there is no one better qualified or in possession of more facts or having the capability to acquire those facts than the applicant. The information required to be provided in a small producer application is more than a test of the immediate knowledge of the individual drafting the application; and if he is not in possession of the required information, it is incumbent upon him to secure it.

The Commissioner finds:

(1) The amendment adopted herein is necessary and appropriate in the administration of the Natural Gas Act.

(2) Since the amendment adopted herein concerns a matter of interpretation of general policy and Commission procedure, compliance with the provisions of 5 USC 553 relating to notice and hearing is unnecessary.

The Commission, acting pursuant to the authority granted by the Natural Gas Act, particularly Subsections (c), (d), and (e) of Section 7 (52 Stat. 825, 56 Stat. 83, 15 USC 717f(c); 56 Stat. 84, 15 USC 717f(d); 56 Stat. 84, 717f(e)) and Section 16 (52 Stat. 830, 15 USC 717o) thereof, and in accordance with 5 USC 553, orders:

(A) Paragraph (a)(2) of § 157.40, Part 157 of Subchapter E, Chapter I of Title 18 of the Code of Federal Regulations, is amended to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

(a) * * *

(2) "Affiliated producers" are persons who, directly or indirectly, control, or are controlled by, or are under common

control with, the applicant producer. Such control exists if the producer has the power to direct or cause the direction of, or as a matter of actual practice does direct, the management and policies of another producer, whether such power is exercised alone or through one or more intermediary companies, or pursuant to an agreement, and whether such power or practice is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, relationship of blood or marriage, or any other direct or indirect means. For the further purposes of this section, the term "agreement" shall not include any agreement for the operation of a natural gas producing property or a plant processing natural gas or any joint venture, partnership, nominee, or other type of agreement pertaining to the joint exploration for and development and operation of oil and gas properties, unless such agreement otherwise establishes the power of one producer to direct or cause the direction of the management and policy of another producer. Also, for the further purposes of this section, the existence of one or more directors of an applicant producer in common with another producer shall be deemed a conclusive presumption of affiliation and control.

* * * * *

(Sec. 7(c), 52 Stat. 825, 56 Stat. 83, 15 USC 717f(c); sec. 7(d), 56 Stat. 84, 15 USC 717f (d); sec. 7(e), 56 Stat. 84, 15 USC 717f(e); sec. 16, 52 Stat. 830, 15 USC 717o)

(B) The amendment adopted herein shall be effective August 1, 1974.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16622 Filed 7-19-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 10, further amended]

PART 410—FEDERAL COAL MINER HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS (1969.....)

Subpart E—Payment of Benefits

BENEFIT RATES

Section 412(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 922(a)) directs the Secretary of Health, Education, and Welfare to make benefit payments to a qualified miner or widow at a rate equal to 50 percentum of the minimum monthly payment to which a Federal employee in Grade GS–2 who is totally disabled is entitled at the time of payment under the minimum payment provision of the Federal Employees Compensation Act, 5 U.S.C. 8112.

Pursuant to Executive Order 11691, dated December 15, 1972, increasing the pay rate for step 1 of grade GS–2 effective January 1973, there was published in the FEDERAL REGISTER on May 24, 1973 (38 FR 13639), an amendment to § 410.510(d) reflecting the increase in benefit amounts payable to a miner or widow effective January 1973.

Executive Order 11777, dated April 12, 1974, published in the FEDERAL REGISTER on April 15, 1974, amended Executive Order 11691 by revising its effective date from January 1973 to October 1972, thus having the effect of making the January 1973 benefit increase to miners, widows, and other beneficiaries (i.e., surviving dependent children, parents, brothers, and sisters) retroactive to October 1972. The purpose of the amendment set forth below is to revise the benefit rate table in § 410.510(d) to change the effective date of the benefit rates shown as being payable for the period January 1973 to September 1973 to the period of October 1972 to September 1973 and to make appropriate change in the effective dates of the benefit rates payable prior to October 1972. A one-time payment, comprising the difference between the payments already made under the old rates, and the correct payments under the new rates for October 1972 through December 1972, will be made, as soon as it is administratively practicable, to all identifiable beneficiaries who were on the rolls for those months. No action is required on the part of black lung beneficiaries to receive this one-time adjustment. Since this amendment merely reflects the amended effective date contained in Executive Order 11777 of the General Schedule (upon which black lung benefit rates are based) contained in Executive Order 11691, the Secretary of Health, Education, and Welfare finds that publication with notice of proposed rule making, as well as publication at least 30 days prior to an effective date are unnecessary.

Consideration will be given to any comments pertaining to this amendment which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth Street and Independence Avenue SW., Washington, D.C. 20201.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program No. 13.806, Special Benefits for Disabled Coal Miners.)

Dated: July 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: July 16, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Paragraph (d) of § 410.510 is revised to read as follows:

§ 410.510 Computation of benefits.

* * * * *

(d) *Benefit rates for miners and widows.*

	Beginning October 1973	October 1972 to September 1973	January 1972 to September 1972	1971	1969-70
(1) Miner or widow with no dependents	$177.60	$169.80	$161.70	$153.10	$144.60
(2) Miner or widow with 1 dependent	266.40	254.70	242.60	229.60	216.70
(3) Miner or widow with 2 dependents	310.80	297.10	283.00	267.60	252.60
(4) Miner or widow with 3 or more dependents	355.20	339.60	323.60	306.10	288.60

(Sec. 411(a), 412(a), 426(a), 503, 83 Stat. 793; 30 U.S.C. 921(a), 922(a), 936(a), 957)

Effective date. The foregoing amendment shall become effective on July 22, 1974.

[FR Doc.74-16605 Filed 7-19-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 46—SHELLED NUTS

Fill of Container for Shelled Nuts in Rigid and Semirigid Containers

A proposal was published in the FEDERAL REGISTER of January 15, 1974 (39 FR 1860), to amend the standard of fill of container for shelled nuts in rigid and semirigid containers (21 CFR 46.52) to provide for determining the volume of cylindrical fiber-bodied containers intended as an alternative to metal cans for packaging of shelled nuts. The proposal was based on a petition filed jointly by Owens-Illinois, Inc., Toledo, OH 43666, and the Planters Peanut Division of Standard Brands, Inc., 200 Jackson Ave., Suffolk, VA 23434.

The notice provided a 60-day period for interested persons to file with the Hearing Clerk written comments regarding the proposal.

Three supportive comments and no adverse comments were received in response to the proposal.

One of the comments included a suggestion that, due to variations in body wall materials of composite cans, a method of measuring inside diameter and finished height might be preferred over the proposed method, unless the proposed method were established on a formula basis to allow for easy material substitution.

The Commissioner of Food and Drugs concludes that, even though the suggestion may have some merit, in the absence of data demonstrating that the suggested method is to be preferred and in the absence of a showing as to how the formula approach would work (that is, to prevent the use of a container whose outside appearance is deceptive), the suggested method should not be adopted at this time. However, as provided for in 21 CFR 2.65, any person desiring to amend the standard to change the method for measurement may file an appropriate petition. The petition must incorporate sufficient grounds and supporting data showing how such a method, if adopted, would preclude the use of deceptive packages.

On the basis of the information given in the petition, the comments received, and other relevant information, the Commissioner of Food and Drugs concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standard as proposed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That Part 46 be amended by revising § 46.52 (b) (2) (iii) to read as follows:

§ 46.52 Shelled nuts in rigid or semirigid containers; fill of containers; label statement of substandard fill.

* * * * *

(b) * * *

(2) * * *

(iii) For cylindrical containers, calculate the container volume in cubic centimeters as the product of the height times the square of the diameter, both measured in inches, times 12.87; or as the product of the height times the square of the diameter, both measured in centimeters, times 0.7854. For containers that do not have indented ends, use the inside height and inside diameter as the dimensions. For metal cans with indented ends (that is, metal cans with ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus one-eighth inch (0.318 centimeter). For fiber-bodied containers with indented ends (that is, fiber-bodied cans with metal ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus three-sixteenths inch (0.476 centimeter).

* * * * *

Any person who will be adversely affected by the foregoing order may, at any time on or before August 21, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective September 20, 1974, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: July 15, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-16670 Filed 7-19-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart B—Statements of Policy and Interpretation Regarding Animal Drugs and Medicated Feeds

SULFONAMIDE-CONTAINING DRUGS FOR USE IN FOOD-PRODUCING ANIMALS

In the FEDERAL REGISTER of July 20, 1973 (38 FR 19404), the Commissioner of Food and Drugs issued a notice of proposed rule making regarding the use of sulfonamide-containing drugs in food-producing animals. The proposal set forth the following:

1. All sulfonamide-containing drugs for oral, injectable, intramammary and intrauterine use in food-producing animals are now deemed to be new animal drugs for which an approved new animal drug application (NADA) will be required.

2. The results of 90-day subacute toxicity studies must be submitted by each sponsor of such drugs for their continued use as a basis for determining a "no-effect" level in laboratory animals.

3. Residue data must be submitted on each species and under the recommended conditions of use for each such drug to establish safe withdrawal periods and to assure that edible products from treated animals are safe for human consumption.

In response to the proposal, seven comments were received from individual practitioners, drug manufacturers, and an industry trade association representing manufacturers of animal health products, on behalf of their membership. The following is a discussion of the comments received regarding the proposal, and the Commissioner's responses:

1. One comment questioned the statutory authority for requiring 90-day studies.

Section 512(1) of the Federal Food, Drug, and Cosmetic Act provides that the Secretary, Department of Health, Education, and Welfare, may require the submission of information on an approved NADA to determine whether there is or may be grounds for invoking section 512 (e) or (m) (4) of the act to withdraw approval of the NADA or an application for an animal feed bearing or containing a new animal drug. The Commissioner concludes that section 512(1) provides ample statutory authority to require the submission of the additional data on sulfonamide-containing drugs.

2. One comment stated that the impact on man's food supply by the proposed removal of sulfonamide-containing drugs is unknown. Federal agencies are required to file environmental impact statements for major actions.

The proposed regulation does not contemplate the removal of large numbers of sulfonamide-containing drugs from the market at this time. It is intended to provide a means by which the Commissioner may reassess the safety of food derived from animals treated with sulfonamide-containing drugs. If the Commissioner later proposes to withdraw approval of sulfonamide-containing drugs, the environmental aspects of such action will be assessed at that time.

3. Another comment asserted that the Commissioner has failed to state which of the particular sulfonamide-containing drugs have approved applications "in effect."

The proposed regulation is directed to all persons or firms marketing drugs which are subject to the proposal, whether or not they currently have an approved NADA. Many persons or firms may now be marketing such drugs which are not now the subject of an approved NADA. Therefore, individual identification of all holders of approved NADA's would serve no purpose since such a list would not include identification of all firms or persons or sulfonamide-containing drugs subject to this regulation.

4. One practitioner questioned the need for additional safety data in view of the long history of use of sulfonamide-containing drugs in food-producing animals.

The issue in question does not relate to the safety of these drugs to animals, but rather to the safety of food derived from treated animals. As indicated in the proposal, recently available studies show that the degree of thyroid response to exposure to sulfonamide-containing drugs should be given greater significance in the evaluation of the toxicity of these drugs. Therefore, it is necessary to request the data as specified in the proposal to permit a thorough evaluation of this response.

5. A respondent suggested that not all producers of dosage form drugs should

be required to carry out the 90-day toxicity studies. One comment suggested that the toxicity studies should be required only of those firms producing bulk sulfonamide-containing drugs rather than those who are compounding these drugs into dosage form drugs. Another comment suggested that the Food and Drug Administration have one study done by a qualified institution sponsored by the basic drug manufacturers.

It is incumbent upon the drug industry to provide adequate information regarding the safe and effective use of the drugs which they wish to market. The information submitted in the form of an NADA is the property of the person or firm in whose name the application is filed. Pursuant to 5 U.S.C. 1905 and 21 U.S.C. 331(j), this information may not be made available by the Food and Drug Administration for the private use of other individuals in support of their NADA's. However, studies carried out by any individual firm or person may be incorporated by reference into an application of another firm or person on the basis of a request supported by written authorization from the firm which has completed the studies. Thus, the studies need not be carried out by each and every firm provided that a written authorization to refer to such studies is received in lieu of the results of the actual work done. The Commissioner encourages cooperation among firms to reduce the amount of testing to the minimum necessary to cover all sulfonamide-containing drugs.

6. One respondent took issue with that part of the proposed regulation which states that withdrawal periods exceeding 5 days will not be established for drugs administered continuously to poultry since they are not practical and cannot reasonably be expected to be followed. It was requested that this provision of the proposed regulation be deleted because poultry husbandry practices vary; a longer withdrawal period for turkeys would be practical and could reasonably be expected to be followed.

The Commissioner concurs that poultry husbandry practices do vary. Since the growing cycle is considerably longer and management practice in the production of turkeys differs markedly from that of chickens, this provision is modified in the final order to apply only to chickens rather than to all poultry.

7. One comment requested a reference to the recently available studies pertaining to degree of thyroid response referred to in the proposal.

These data are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852.

They consist of one published study "Observations on the Thyroid Gland in Rats Following the Administration of Sulfamethoxazole and Trimethoprim," *Toxicology and Applied Pharmacology* 24: 351-363, 1973, and summaries of other data included as confidential information in NADA's.

8. It was requested that the requirement that an application be submitted within 90 days following publication of the final order be extended to 180 days.

The Commissioner concludes that it is reasonable to extend the period of time required for the submission of applications to 180 days. The date for submission of the essential information regarding the safety of sulfonamide-containing drugs to be submitted following completion of the required studies will remain unchanged at 12 months following publication of this final order. No extensions of time will be granted for the submission of the required applications and studies referred to in § 135.102 (c) and (d), except that the Commissioner may allow, on an individual basis, extensions of time upon written request showing good reason therefor. Any such requests and responses shall be placed on public display in the office of the Hearing Clerk.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135.102 is revised to read as follows:

§ 135.102 Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-producing animals.

(a) The Commissioner of Food and Drugs announced in the FEDERAL REGISTER of October 23, 1970 (35 FR 16538) the need for additional information regarding the labeling and residues of sulfonamide-containing drugs as follows:

(1) New information available to the Commissioner of Food and Drugs has shown that, under certain circumstances where food-producing animals have been treated with oral or parenteral sulfonamide-containing drugs, sulfonamide residues may be detected in the edible products of such animals when they are slaughtered within 10 days of the last treatment.

(2) The presence of sulfonamide residues in food constitutes an adulteration within the meaning of section 402(a)(2)(D) of the act in the absence of a tolerance for such residues established pursuant to section 512(i) of the act.

(3) To assure that edible products from treated animals are safe for human consumption, the labeling of preparations which contain sulfonamide drugs intended for oral or parenteral use and which are not the subject of a regulation providing for such use shall bear:

(i) A statement that the use of the drug (other than use in chickens) must be discontinued 10 days before treated animals are slaughtered for food; or

(ii) A statement of withdrawal period which has been established based upon data submitted to the Commissioner and found satisfactory for the elimination of drug residues from edible products.

(4) It has been concluded that, because of poultry husbandry practices in the production of chickens, withdrawal periods exceeding 5 days for drugs administered continuously, are not generally practical and cannot reasonably be expected to be followed. Therefore, it is concluded that such sulfonamide drugs are not to be used continuously in chickens unless a withdrawal period which does not exceed 5 days has been established in accordance with paragraph (a)(3)(ii) of this section.

(5) Labeling revisions required for compliance with this paragraph were to be made at the earliest possible time and, in any case by January 21, 1971. Any such products now on the market and not in compliance with this paragraph are subject to regulatory action.

(6) The labeling requirements of paragraph (a)(3)(i) of this secton were adopted as an interim measure. Sponsors of sulfonamide-containing drugs subject to the provisions of this section were required to submit by October 22, 1971, adequate data to permit the establishment of appropriate withdrawal periods as required by paragraph (a)(3)(ii) of this section.

(b) Recently available studies indicate that the degree of thyroid response to exposure to sulfonamide drugs should be given greater significance in the evaluation of sulfonamide toxicity and in the determination of "no-effect" levels of the drugs in laboratory animals to support the establishment of tolerances for negligible residues of sulfonamides, in edible products from treated animals.

(c) The Commissioner has concluded that because of questions raised regarding sulfonamide toxicity there is a need to facilitate a determination of whether there are grounds to invoke section 512(e) of the act regarding the continued use of these sulfonamide-containing drugs. Therefore, it has been concluded that sulfonamide-containing drugs for oral, injectable, intrauterine or intramammary use in food-producing animals are new animal drugs for which approved new animal drug applications are required. All persons or firms marketing such drugs which are not now the subject of an approved new animal drug application must submit a complete new animal drug application on or before January 20, 1975 for these drugs if marketing is to continue during the interim. Any such drug then on the market which is not the subject of an application submitted for such drug will be deemed adulterated within the meaning of section 501(a)(5) of the act and subject to regulatory action. The submission of applications for sulfonamide-containing drugs pursuant to § 135.109 (38 FR 9811) which were required to be submitted by July 19, 1973 will be adequate to meet the requirements for submission of an application pursuant to this section.

(d) Under the provisions of section 512(i) of the act, by July 22, 1975, each sponsor of a new animal drug application for a sulfonamide-containing drug labeled for oral, injectable, intrauterine or intramammary use in food-producing animals shall submit, for each such drug, the results of 90-days subacute toxicity studies in one rodent and one non-rodent

species. The studies shall include a determination of a "no-effect" level of the drug using thyroid response as one parameter. Protocols may be submitted to the Food and Drug Administration for review prior to the initiation of studies. If an evaluation of the results of these studies shows that existing methodology used to establish negligible tolerances for residues of the sulfonamide drugs in edible tissues is not of adequate sensitivity and specificity, improved methodology will be required. Any such drug then on the market which is not the subject of such submitted studies will be subject to the provisions of section 512 (e) (2) (A) of the act.

(e) New animal drug applications and the data required by this section pursuant to section 512(1) of the act shall be submitted to the Food and Drug Administration, Bureau of Veterinary Medicine, Division of New Animal Drugs, HFV-300, 5600 Fishers Lane, Rockville, MD 20852.

Effective date. This order shall be effective on August 21, 1974.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351; 21 U.S.C. 360b, 371(a))

Dated: July 16, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-16671 Filed 7-19-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 209—ADMINISTRATIVE PROCEDURE

Disposal of Dredged Material in Navigable or Ocean Waters

On February 19, 1974, the Department of the Army, acting through the Chief of Engineers, published proposed regulations which prescribed the policies, practices and procedures to be followed by all Corps of Engineers installations in connection with their review of Federal projects performed by the Corps of Engineers which involve the disposal of dredged material in navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters. These proposed regulations were developed pursuant to sections 313 and 404 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1323 and 1344) and section 103(e) of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA) (33 U.S.C. 1413 (e)).

The Department of the Army, acting through the Corps of Engineers, is publishing herewith the final regulations which prescribe the policies, practices and procedures to be followed in the review of Federal projects performed by the Corps of Engineers which involve the disposal of dredged material in navigable waters or the transportion of dredged material for the purpose of dumping it in ocean waters.

The public comment period for this regulation expired on 20 March 1974. This final regulation has been revised based on comments received from the general public, other Federal agencies, and Corps field offices. We wish to take this opportunity to express appreciation for these comments and suggestions.

The following analysis summarizes comments of particular significance which were received on the cited sections of the proposed regulations, and discusses the basis for the decisions which were made.

Section 209.145(c) (5) and (6). The Endangered Species Act of 1973 and the National Historic Preservation Act of 1966 were added to the list of related legislation.

Section 209.145(d) (1). Several comments and questions were received concerning the definition of the term "navigable waters". This definition has received the benefit of over 100 years of judicial definition and interpretation which has largely been based on the constitutional extent to which the authority of the United States can extend over the nation's waterways. Recognizing that the extent of Federal authority over the nation's waterways has been an evolutionary one and that recent judicial decisions have provided additional guidance and direction as to the scope and extent of this jurisdiction, the Corps recently undertook an extensive review of all of the judicial decisions in this area, and substantially revised and refined its administrative definition of this term to more accurately reflect and incorporate this judicial guidance. This revised definition was published in the FEDERAL REGISTER on September 9, 1972 (37 FR 18289), and has been subsequently included in the Code of Federal Regulations (33 CFR 209.260).

It is recognized that the term "navigable waters" as used in section 404 of the FWPCA is later defined in the Act as "the waters of the United States." The Conference Report, in discussing this term, advises that this term is to be given the "broadest possible Constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes." We feel that the guidance in interpreting the meaning of this term which has been offered by this Conference Report—to give it the broadest possible Constitutional interpretation—is the same as the basic premise from which the aforementioned judicial precedents have evolved.

In addition, the territorial seas have been deleted from this definition since these waters fall within the definition of "ocean waters." Accordingly, disposal of dredged material in ocean waters will be covered under the MPRSA of 1972.

Section 209.145(d) (5). The definition of "Federal project" has been revised to clarify the types of activities which fall within the purview of this regulation.

Section 209.145(e). The various public interest factors and criteria used to evaluate permit applications for Corps of Engineers permits, which were incorporated into the proposed regulation, have been deleted. Instead, Federal projects involving the disposal of dredged material in navigable or ocean waters will be evaluated pursuant to the guidelines and criteria, respectively, which have been promulgated by the Administrator, EPA, pursuant to the requirements of the FWPCA & MPRSA. Since these guidelines and criteria are required by statute to include the public interest factors and criteria which the Corps of Engineers by policy requires in its review of permit applications under the River and Harbor Act of 1899, it was determined that inclusion of these public interest factors and criteria would be repetitious and serve no purpose in this review process.

Several comments were also received concerning the limited scope of this paragraph. Specifically, the National Wildlife Federation (NWF) and the Environmental Defense Fund (EDF) felt that the paragraph should be modified to clarify that whether or not a Federal project should be performed at all should be equally considered with the manner in which it is to be performed. While Federal projects are different than applications for Federal permits in that Congress by authorizing the project has already predetermined that it should be undertaken, we agree with this point since subsequent reviews pursuant to this regulation and various statutory mandates may lead to a different conclusion. Therefore, we have made appropriate changes to this paragraph and paragraph (f) (1) (vii) to incorporate this concept.

Section 209.145(e) (5) (ii) (c). The requirement of section 7 of the Endangered Species Act of 1973 (PL 93-205, 87 Stat. 884) has been incorporated into this section.

Section 209.145(f) (1) (vii). Several commentators questioned why the Corps would not be required to issue itself a permit as a final administrative step under this regulation. In this regard, it was noted that permits would set forth the terms and conditions under which the disposal operations associated with the Federal project would be performed. While we do not feel that a formal issuance of a permit is necessary, revisions have been made to this section to require inclusion of the conditions under which the Federal project will be performed in the Statement of Findings which will be made at the conclusion of the review process associated with the Federal project. In addition, provision has also been made in this section to exempt Federal contractors involved in the performance of Federal projects from complying with 33 CFR 209.120, (the Corps regulation on permits for activities in navigable or ocean waters) or from obtaining a Department of the Army permit. Since the Statement of Findings will incorporate the terms and conditions under which the disposal operations associated with the Federal project will be performed, if such a determination is made, it was felt that the additional requirement to issue a

permit to the Federal contractor, which would embody the same requirements as would be expressed in his contract, would serve no useful purpose.

Section 209.145(f)(1)(viii). A question was raised as to whether fifteen days would allow the Regional Administrator, EPA sufficient time to review a proposed disposal site. It is felt that this 15 day period is adequate particularly since EPA will be given the additional opportunity to review a proposed disposal site when it receives the initial public notice from the Corps of Engineers. However, this paragraph has been revised to afford EPA a 30 day review period in those cases where it is determined that the disposal site should be at a different location than that which was described in the original public notice.

Section 209.145(g)(1). At the suggestion of the Department of the Interior, information which gives the proposed time schedule for the Federal project as well as the types of equipment and methods of dredging to be used, and a brief description of the existing use of properties immediately adjacent to the project area will be included in the public notice.

This regulation is effective on July 22, 1974.

Dated: July 16, 1974.

J. M. MORRIS,
Major General, USA,
Director of Civil Works.

LIST OF COMMENTS RECEIVED ON PROPOSED REGULATION

1. United States Department of the Interior.
2. Mississippi Marine Resources Council, Long Beach, Miss.
3. Honorable Henry S. Reuss, Chairman, Conservation and Natural Resources Subcommittee, House of Representatives.
4. Mr. Charles Torres, Norco, Louisiana.
5. Environmental Defense Fund, Inc., Washington, D.C.
6. National Wildlife Federation, Washington, D.C.
7. The American Waterways Operators, Inc., Washington, D.C.
8. Upper Mississippi Towing Corporation, Minneapolis, Minn.
9. Slidell Sportmen's League, Slidell, Louisiana.
10. Environmental Defense Fund, Washington, D.C. (21 March 1974).
11. National Newspaper Association, Washington, D.C.
12. St. Charles Environmental Council, Norco, Louisiana.
13. State of North Caroline Department of Natural and Economic Resources, Raleigh, North Carolina.
14. Water Resources Commission, South Carolina.
15. The Waterways Journal, St. Louis, Missouri.
16. GEE & JENSON, Consulting Engineers, Inc., West Palm Beach, Florida.
17. Department of Justice, New Orleans, Louisiana.
18. Lake Carriers' Association, Cleveland, Ohio.
19. The Water Resources Control Board, Sacramento, California.
20. The Lake Michigan Federation, Chicago, Illinois.
21. Water Resources Associated/National Rivers & Harbors Congress, Miss.
22. Department of Natural Resources, Columbus, Ohio.
23. Environmental Protection Agency.

A new § 209.145 is added to 33 CFR Part 209 to read as follows:

§ 209.145 Federal Projects Involving the Disposal of Dredged Material in Navigable and Ocean Waters.

(a) *Purpose.* This regulation prescribes the policy, practice and procedure to be followed by all Corps of Engineers installations and activities in connection with the disposal of dredged material in navigable waters or the transportation of dredged material for the purpose of dumping it in ocean waters associated with Federal projects as hereinafter defined.

(b) *Applicable Laws.* (1) Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323, 86 Stat. 816) requires each agency of the Federal Government engaged in any activity resulting or which may result in the discharge or runoff of pollutants to comply with Federal, State, interstate and local requirements respecting the control and abatement of water pollution to the same extent as any person is subject to such requirements. Section 404 of the same Act (33 U.S.C. 1344) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the discharge of dredged material into navigable waters at specified disposal sites. The selection of disposal sites will be in accordance with guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army. If these guidelines alone prohibit the designation of a disposal site, any potential impairment to the maintenance of navigation, including any economic impact on navigation and anchorage, which would result from the failure to utilize the proposed disposal site in navigable waters, will also be considered by the Corps of Engineers in reaching a decision. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shell fish beds and fishery areas, wildlife or recreation areas.

(2) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413, 86 Stat. 1052) authorizes the Secretary of the Army to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. However, similar to the EPA Administrator's limiting authority cited in paragraph (b)(1) of this section, the Administrator can prevent the issuance of a permit under this authority if he finds that the dumping of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas. Section 103(e) of this Act provides that in connection with Federal projects involving dredged material, the Secretary of the Army may issue regulations, in lieu of its permit procedures (which are prescribed in § 209.120), which will require the application to each project of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under sections 103 (a), (b), (c), and (d) of this Act.

(c) *Related legislation and other authority.* (1) Sections 307(c) (1) and (2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c) (1) and (2), 86 Stat. 1280) require any Federal agency conducting or supporting activities directly affecting a State's coastal zone or undertaking any development project in a State's coastal zone to do so in a manner which is, to the maximum extent practicable, consistent with State's coastal zone management programs as approved by the Secretary of Commerce.

(2) Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (PL 92-532, 86 Stat. 1052) authorizes the Secretary of Commerce after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Federal activities can only be performed in these sanctuaries if the Secretary of Commerce certifies that they are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (a) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (b) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations * * *" (See also § 209.410 on environmental impact statements).

(4) The Fish and Wildlife Act of 1956 (16 U.S.C. 472a et seq.), the Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) express the concern of Congress with the quality of the aquatic environment as it affects the conservation, improvement

and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal Agency which proposes to control or modify any body of water must first consult with the Bureau of Sport Fisheries and Wildlife, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(5) The Endangered Species Act of 1973 (16 USC 668aa—668cc–6, PL 93–205, 87 Stat. 884) requires Federal agencies in the administration of their respective programs to provide for the conservation of endangered species and to insure that these programs will not jeopardize the continued existence of species which have been identified by the Secretary of the Interior as endangered or threatened, or result in the destruction or modification of the habitat of such species.

(6) The National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President & Congress on matters involving historic preservation. In performing its function, the Council is authorized to review and comment upon all undertakings carried out by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places.

(d) *Definitions.* For the purposes of this regulation:

(1) The term "navigable waters" means those waters of the United States except the territorial seas which are subject to the ebb and flow of the tide, or are presently, or have been in the past, or may be in the future susceptible for use for purposes of interstate or foreign commerce (see § 209.260 for a more complete definition of this term).

(2) The term "ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(3) The term "dredged material" means any material excavated or dredged from the navigable waters of the United States including any runoff from a contained disposal area.

(4) The term "coastal zone" means the coastal waters and adjacent shorelands designated by a State as being included in its approved coastal zone management program under the Coastal Zone Management Act of 1972.

(5) The term "Federal Project" means work or activity of any nature and for any purpose which is to be performed by or for the Secretary of the Army acting through the Chief of Engineers pursuant to Congressional authorizations. It does not include work requested by another Federal agency on a cost reimbursable basis.

(e) *Factors to be considered in the evaluation of federal projects involving the disposal of dredged material in navigable or ocean waters*—(1) *Disposal of dredged material in navigable waters.* (i) Federal projects involving the disposal of dredged material in navigable waters at a specified disposal site shall be evaluated by the application of guidelines which have been developed by the Administrator, EPA, in conjunction with the Secretary of the Army pursuant to section 404(b) of the Federal Water Pollution Control Act. The criteria for ocean dumping which have been promulgated by the Administrator, EPA and are published in Title 40 of the Code of Federal Regulations, section 227 will be utilized in this evaluation process until these guidelines have been promulgated.

(ii) If these guidelines or criteria alone would prohibit the disposal of dredged material at a specified disposal site, any potential impairment to the maintenance of navigation, including any economic impact on navigation and anchorage which would result from the failure to use the proposed disposal site in navigable waters, will also be considered by the Corps of Engineers in reaching a decision.

(2) *Disposal of dredged material in ocean waters.* (i) Federal projects involving the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated to determine the effect which the proposed dumping will have on human health, welfare, or amenities, or the marine environment, ecological system, or economic potentialities. No transportation of dredged material for the purpose of dumping it in ocean waters will be performed if it is determined that the proposed dumping of dredged material will unreasonably degrade or endanger any of these factors.

(ii) In making this determination the criteria established by the Administrator, EPA, pursuant to section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972 which relate to the effects of the dumping shall be applied. If it is determined that the criteria would preclude the use of a dumping site for the dredged material, the District Engineer shall make an independent determination as to the need for this dumping site which shall be based on an independent evaluation of the potential effect which a prohibition on the use of the dumping site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States.

(iii) In determining whether or not the proposed transportation of dredged material for the purpose of dumping it in ocean waters should be undertaken, the District Engineer shall make an independent evaluation and determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, those sites recommended by the Administrator, EPA, pursuant to section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 will be utilized to the maximum extent possible.

(3) *Effect on wetlands.* (i) Wetlands are those land and water areas subject to regular inundation by tidal, riverine, or lacustrine flowage. Generally included are inland and coastal shallows, marshes, mudflats, estuaries, swamps, and similar areas in coastal and inland navigable waters. Many such areas serve important purposes relating to fish and wildlife, recreation, and other elements of the general public interest. As environmentally vital areas, they constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest.

(ii) Wetlands considered to perform functions important to the public interest include:

(*a*) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(*b*) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(*c*) Wetlands contiguous to areas listed in paragraph (e) (3) (ii) (*a*) and (*b*) of this section, the destruction or alteration of which would affect detrimentally the natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or environmental characteristics of the above area;

(*d*) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands often include barrier beaches, islands, reefs and bars;

(*e*) Wetlands which serve as valuable storage areas for storm and flood waters; and

(*f*) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected.

(iii) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, any wetland site involved in a Federal project will be evaluated with the recognition that it is part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas, in consultation with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Marine Fisheries Services of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency (EPA), the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the

cumulative effect of activities in such areas.

(iv) Disposal of dredged material will not be performed in wetlands identified as important to paragraph (e) (3) (ii) of this section, unless the District Engineer concludes, on the basis of the analysis required in paragraph (e) (1) and (2) of this section, that the benefits of the proposed disposal outweigh the damage to the wetlands resource and the proposed disposal is necessary to realize those benefits. In evaluating whether a particular alternation is necessary, the District Engineer shall primarily consider whether the wetland resources and environment must be utilized in performing the dredged disposal, and whether feasible alternative disposal sites are available.

(v) In accord with the congressional policy expressed in the Estuary Protection Act, P.L. 90-454, State regulatory laws or programs for classification and protection of wetlands will be given great weight.

(4) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (see paragraph (c) (4) of this section), District Engineers will consider the reports and recommendations submitted by the Bureau of Sport Fisheries and Wildlife, the National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the State in which the work is to be performed and these reports and recommendations shall be made an integral part of the project file. All justifiable means or measures to protect and conserve fish and wildlife resources by prevention of their loss and damage, including modification of the proposed operations to eliminate or mitigate any damage to such resources, will be included in the plans for the Federal project to obtain the maximum overall project benefits.

(5) *Historic, scenic, recreational and conservation values.* (i) Disposal of dredged material in navigable or ocean waters associated with Federal projects may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation requires that due consideration be given to the effect which the disposal of the dredged material may have on the enhancement, preservation, or development of such values. Recognition of these values is often reflected by State, regional, or local land use classifications, or by similar Federal controls or policies. In both cases, action on such proposed disposal operations should, insofar as possible, be consistent with, and avoid adverse effect on, the values or purposes for which those classifications, controls, or policies were established.

(ii) Specific application of the policy in paragraph (e) (5) (i) of this section applies to:

(*a*) Rivers named in section 3 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1273 et seq.), and those proposed for inclusion as provided by sections 4 and 5 of the Act, or by later legislation.

(*b*) Historic, cultural, or archeological sites or practices as provided in the National Historic Preservation Act of 1966 (83 Stat. 852, 42 U.S.C. 4321 *et seq.*) (see also Executive Order 11593, May 13, 1971, and statutes there cited). Particular attention should be directed toward any site, building, structure, or object listed in the National Register of Historic Places. Comments regarding such undertakings shall be sought and considered as provided by paragraph (g) (1) (v) of this section.

(*c*) Protection of those species which the Secretary of the Interior has by regulation determined to be endangered or threatened pursuant to the Endangered Species Act of 1973 (see paragraph (c) (5) of this section).

(*d*) Any other areas named in Acts of Congress or Presidential Proclamations as National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such laws as may be established under Federal law for similar and related purposes, such as estuarine and marine sanctuaries.

(6) *Disposal of dredged material in coastal zones and marine sanctuaries.* (i) The disposal of dredged material in navigable or ocean waters in or affecting the coastal zones of those States having a coastal zone management program approved by the Secretary of Commerce will be evaluated to insure that the disposal operations will be consistent with those management programs to the maximum extent practicable. (See also paragraph (i) (2) (vi) of this section.)

(ii) The disposal of dredged material in a marine sanctuary established by the Secretary of Commerce under authority of section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 will be evaluated to determine the impact which the disposal operation will have on the marine sanctuary. No disposal of dredged material will be undertaken until a certification is obtained from the Secretary of Commerce that the disposal is consistent with the purposes of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary. In appropriate cases, modification of disposal plans will be required to incorporate provisions required by the Secretary of Commerce in connection with his certification.

(f) *Evaluation procedures.* (1) Except as provided in paragraph (f) (4) of this section, the District Engineer will take the following actions with respect to Federal projects involving the disposal of dredged material in navigable or ocean waters:

(i) Prior to undertaking a Federal project involving the disposal of dredged material in navigable or ocean waters, the District Engineer will issue a public notice as described in paragraph (g) of this section. The notice will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed project, and will be sent to appropriate city and county officials, to appropriate State agencies, to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, and to any other interested parties. In addition, the District Engineer may also publish a copy of this public notice (without drawings) for five consecutive days in the local newspaper. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the Field Representative of the Secretary of the Interior, the Regional Director of the Bureau of Sport Fisheries and Wildlife, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency, the Regional Director, Bureau of Outdoor Recreation, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the State agency responsible for fish and wildlife resources, the District Commander, U.S. Coast Guard, and the Office of the Chief of Engineers, Attention: DAEN-CWO-M.

(ii) The District Engineer shall consider all comments received in response to the public notice in his subsequent actions. Receipt of the comments will be acknowledged and the comments will be made a part of the official file. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the District Engineer may seek the advice of that agency. The receipt of comments as a result of the public notice should normally not extent beyond thirty days from the date of the notice.

(iii) At the earliest practicable time all Federal projects involving the disposal of dredge material in navigable waters or ocean waters will be systematically reviewed and evaluated in terms of the impact on the environment in accordance with § 209.410. A decision based on the assessment as to whether or not an environmental impact statement is required will be made.

(*a*) If the District Engineer determines that the Federal project will not have a significant impact on the environment, he will prepare a negative determination which will be available at least 15 days prior to a public hearing or public meeting, if one is to be held, in response to the public notice.

(*b*) The District Engineer will take the following action with respect to those cases where a negative determination is not appropriate:

(*1*) If the disposal of dredged material in navigable or ocean waters is associated with a maintenance dredging project which is part of a Federal project commenced before 1 January 1970, the

District Engineer shall review the proposed maintenance dredging operations to determine whether a significant adverse impact to the overall public interest will result if the maintenance dredging is deferred pending completion of the environmental impact statement or supplement to an existing environmental impact statement. If the District Engineer determines that deferral will be unacceptable from an overall public interest standpoint, he will prepare a determination and findings to this effect which must be completed at least 15 days prior to a public hearing or public meeting if one is to be held. In such cases, the District Engineer will immediately begin preparation of the required environmental impact statement, or supplement, while concurrently following the other procedures of this regulation and during the subsequent performance of the maintenance dredging project if a decision is made to dispose the dredged material associated with it in navigable or ocean waters. If, however, the District Engineer determines that no significant adverse impact on the public interests will occur pending completion of the required environmental impact statement or supplement, the District Engineer will proceed in accordance with 33 CFR 209.410 and paragraph (f)(1)(iii)(*b*)(2) of this section. The provisions of this paragraph (f)(1)(iii)(*b*)(*1*) shall not be applicable after January 1, 1976.

(2) If the District Engineer determines that an environmental impact statement or supplement to an existing environmental impact statement must be prepared, and the disposal of dredged material in navigable or ocean waters (*i*) is associated with a maintenance dredging project which is part of a Federal project commenced after January 1, 1970, or (*ii*) involves maintenance dredging associated with a Federal project commenced before January 1, 1970, where the District Engineer has determined that no significant adverse impact to the public interest will occur pending completion of an environmental impact statement or supplement if one is required, or (*iii*) involves any maintenance dredging commenced after January 1, 1976, the District Engineer will proceed in accordance with 33 CFR 209.410. If a public hearing is to be held, the proposed final environmental impact statement or supplement, with responses to all comments received on the draft environmental impact statement, must be completed 15 days prior to the hearing. If a public meeting is planned (see § 209.405), however, the draft environmental impact statement or supplement will be filed with CEQ at least fifteen days prior to the meeting.

(iv) If a person or persons having a demonstrated interest which may be affected by the disposal of dredged material in navigable or ocean waters requests a hearing, or if otherwise required by law or directed by the Chief of Engineers, the District Engineer will arrange a public hearing in accordance with applicable Corps of Engineers regulations. If no public hearing is to be held and the District Engineer nevertheless determines that additional information necessary to the proper evaluation of the proposed disposal operation would probably be obtained thereby, the District Engineer will hold a public meeting (see § 209.405).

(v) If the disposal of dredged material involves any property listed in the National Register of Historic Places (which is published in its entirety in the FEDERAL REGISTER annually in February with addenda published each month), the District Engineer will determine if any aspect of the disposal activity causes or may cause any change in the quality of the historical, architectural, archeological, or cultural character that qualified the property for listing in the National Register. Generally, adverse effects occur under conditions which include but are not limited to destruction or alteration of all or part of the property; isolation from or alteration of its surrounding environment; and introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting. If the District Engineer determines that the disposal activity will have no adverse effect on the property, he will proceed with the standard procedures in this regulation. If, however, the District Engineer determines that the disposal activity will have an adverse effect on the property, he will proceed in accordance with the procedures specified in the FEDERAL REGISTER, Volume 39, Number 18, January 25, 1974 (36 CFR Part 800).

(vi) If it can be anticipated that related work by other Federal and non-Federal interests will occur in the same general area as the Federal project, the District Engineer will include and consider this related work in his planning, processing and review of the Federal project under this regulation. To the maximum extent possible, he will coordinate with interested Federal, State, regional and local agencies and the general public simultaneously with the related projects. (See also paragraph (g)(1)(vi) of this section.)

(vii) After all above actions have been completed, the District Engineer will determine whether the dredged material will be disposed in navigable or ocean waters and if so, the location of the disposal site, or will refer the project file to the Division Engineer for decision pursuant to paragraph (i)(2) of this section. When the final decision is made, the official making the decision will make a statement of findings to support that decision, and if the decision is made to dispose the dredged material in navigable or ocean waters at a specific disposal site, the statement of findings will include the conditions under which the disposal will be performed. This statement of findings will be dated, signed and placed in the project file. In addition, if it is determined that the dredged material will be disposed in navigable or ocean waters, this statement of findings shall serve to satisfy any need for a Government contractor performing a Federal project to obtain a Department of the Army permit.

(viii) Prior to undertaking a Federal project for the discharge or dumping of dredged material in navigable or ocean waters, Corps of Engineers officials will advise appropriate Regional Administrators of the intended use of the proposed disposal site. If the Regional Administrator advises, within fifteen days if the disposal site is the same as that identified in the public notice or within thirty days if a different disposal site is selected, that he objects to the proposed disposal site, the case will be forwarded to the Chief of Engineers, ATTN: DAEN-CWO-M, in accordance with paragraph (i) of this section for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain an analysis for a determination by the Secretary of the Army that there is no economically feasible method or site available other than that to which the Regional Administrator objects.

(2) In following the procedures prescribed in paragraph (f)(1) of this section, the District Engineer may process each Federal project involving the disposal of dredged material in navigable or ocean waters to be performed within his District separately or may process such Federal projects collectively under one public notice wherever deemed appropriate and to the maximum extent possible.

(3) The District Engineer will publish monthly a list of decisions made on Federal projects involving the disposal of dredged material in navigable or ocean waters during the previous month. The list will identify each project by name, give a brief description and location of the disposal operation, and indicate the decision on the project. It will be distributed to all persons who received any of the public notices on the project or were attendees at a public meeting or hearing.

(4) If the circumstances surrounding a Federal project involving the disposal of dredged material in navigable or ocean waters require emergency action, the District Engineer will, after obtaining approval from the Division Engineer, issue a public notice pursuant to paragraph (g)(1)(i) through (x) of this section, below which will be forwarded to all appropriate Federal and State agencies. The public notice will, in addition, to the information required by paragraph (g)(1)(i) through (x) of this section, describe explicitly the emergency situation and indicate that this work will be performed immediately. If, during the performance of this emergency work, comments are received from this public notice which, in the judgment of the District Engineer, reveal the necessity of modifying the performance of this emergency dredging operation, the District Engineer, following consultation

with the Division Engineer, will take appropriate measures to achieve this result. A copy of the public notice will also be forwarded to the Chief of Engineers, ATTN: DAEN–CWO–M when it is issued.

(5) In view of the extensive coordination with other agencies and the public, the District Engineer will initiate action under these regulations sufficiently in advance to meet operation schedules.

(g) *Public notice and coordination with interested parties.* (1) The public notice is the primary method of advising all interested parties of the Federal project and of soliciting comments and information necessary to evaluate the probable impact of the discharge of dredged material in navigable or ocean waters. The notice must, therefore, include sufficient information to give a clear understanding of the nature of the activity to generate meaningful comments. The notice should include the following items of information:

(i) The name and location of the Federal project and proposed disposal site(s).

(ii) The citation of the law(s) under which the Federal project is to be reviewed. (See paragraph (b), above.

(iii) A brief description of the Federal project and a description of the estimated type, composition and quantity of materials to be discharged, the proposed time schedule for the dredging activity, and the types of equipment and methods of dredging and conveyance proposed to be used;

(iv) A sketch showing the location of the Federal project including depth of water in the area and all proposed disposal site(s);

(v) A brief description of the existing use of properties immediately adjacent to the disposal area;

(vi) The nature, estimated amount, and frequency of known and anticipated related dredging and disposal to be conducted by others;

(vii) A statement as to whether the proposed disposal site(s) is (are) ones which has (have) previously been designated by the Administrator, EPA;

(viii) A list of Federal, State and local agencies with whom these activities are being coordinated;

(ix) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement;

(x) Any other available information which may assist interested parties in evaluating the likely impact of the disposal of the dredged material.

(xi) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the disposal of the dredged material.

(2) The following statement will also be included in the public notice:

Any person who has an interest which may be affected by the disposal of this dredged material may request a public hearing. The request must be submitted in writing to the District Engineer within _____ days of the date of this notice and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity.

(3) If the Federal project involves the discharge of dredged material into navigable waters, the public notice shall also contain the following:

Designation of the proposed disposal site for dredged material associated with this Federal project shall be made through the application of guidelines promulgated by the Administrator EPA in conjunction with the Secretary of the Army. If these guidelines alone prohibit the designation of this proposed disposal site, any potential impairment to the maintenance of navigation, including any economic impact on navigation and anchorage which would result from the failure to use this disposal site, will also be considered.

(4) If the Federal project involves the transportation of dredged material for the purpose of dumping it in ocean waters, the public notice shall also contain the following:

The proposed transportation of this dredged material for the purpose of dumping it in ocean waters will be evaluated to determine that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological system, or economic potentialities. In making this determination, the criteria established by the Administrator, EPA pursuant to section 102 (a) of the Marine Protection, Research and Sanctuaries Act of 1972 shall be applied. In addition based upon an evaluation of the potential effect which the failure to utilize this ocean disposal site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will also be made of the need to dump this dredged material in ocean waters, other possible methods of disposal, and appropriate locations for the dumping.

(5) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the disposal of dredged material associated with the Federal project. A copy of the public notice with the list of the addressees to whom the notice was sent will be included in the file. If a question develops for which another agency has responsibility and that other agency has not responded to the public notice, the District Engineer will contact that agency directly for its comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the District Engineer will inform the member of Congress of his determination.

(6) Notices sent to several agencies within the same State may result in conflicting comments from those agencies. Many States have designated a single State agency or individual to provide a single and coordinated State position regarding those matters. Where a State has not so designated a single source, the District Engineer will elicit from the Governor an expression of his views and desires concerning the disposal of dredged material associated with the Federal project.

(h) *Duration of determinations.* (1) If the Federal project involves periodic or annual maintenance dredging, which requires the disposal of dredged material in navigable or ocean waters, the determination as to whether the dredged material will be discharged in navigable or ocean waters will include the disposal of dredged material in such waters required by future periodic or annual maintenance dredging.

(2) The District Engineer may revaluate the location and procedures by which the disposal of dredged material in navigable or ocean waters is performed, and take action to modify the location or procedures if conditions under which those discharges were initially specified have changed materially. In the event a revaluation becomes necessary the same evaluation factors set forth in paragraph (e) of this section will be followed.

(i) *Authority to undertake federal projects involving the disposal of dredged material in navigable or ocean waters.* (1) District Engineers may undertake Federal projects requiring the disposal of dredged material in navigable or ocean waters as are necessary to protect the navigable or ocean waters in all cases in which there are no unresolved substantive objections to the proposed disposal activity. All other Federal projects requiring the disposal of dredged material in navigable or ocean waters, including those cases in subparagraph (i) (2) (i) through (v) of this section, will be referred to Division Engineers.

(2) Division Engineers will review and evaluate all Federal projects referred by District Engineers and, except in those cases identified in paragraph (i) (2) (i) through (v) of this section, resolve outstanding substantive objections. In so doing, Division Engineers may authorize or defer commencement of a Federal project and may require the inclusion of additional procedures determined to be necessary to protect the navigable waters or ocean waters. However, Division Engineers will refer to the Chief of Engineers, ATTN: DAEN–CWO–M, the following cases for resolution:

(i) When it is proposed to undertake a Federal project involving the disposal of dredged material in navigable or ocean waters and the Regional Administrator, EPA, has advised the District or Division Engineer of his intent to take measures necessary to prohibit or restrict the use of a specified disposal site in navigable waters or that the dumping of dredged material in ocean waters will violate the criteria and restrictions promulgated under section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972;

(ii) When there is substantial doubt as to authority, law, regulations, or policies applicable to the Federal project;

(iii) When higher authority requests the case be forwarded for decision;

(iv) When litigation is expected;

(v) When the disposal of dredged material associated with the Federal project

is inconsistent with an approved State coastal zone management plan.

(3) In addition, Division Engineers may at their discretion, refer to the Chief of Engineers, ATTN: DAEN-CWO-M, the following cases:

(i) When the recommended determination is contrary to the stated position of the Governor or of a member of Congress of the affected State(s).

(ii) When there exists a substantial dispute as to size, nature, or effect of the disposal operation associated with the Federal project as distinguished from opposition to the overall Federal project itself.

(j) *Supervision of Federal projects.* District Engineers will insure that the disposal activity is conducted and executed in conformance with the plans and procedures of the project as expressed in the Statement of Findings. In addition, in those cases where the Federal project involves the disposal of dredged material in ocean waters, District Engineers will forward a copy of the Statement of Findings to the District Commander, U.S. Coast Guard and will take necessary measures to assure that a copy of the Statement of Findings is on board of the vessel(s) involved in the disposal operation.

(k) *Reports.* The report of a District Engineer on a project requiring action by the Division Engineer or by the Chief of Engineers will be in a letter form with all pertinent comments, records, and studies including a copy of all public notices issued, transcripts of the public meetings and public hearings held, the environmental assessment and a proposed statement of findings as inclosures. The following items will also be included or discussed in the report:

(1) Name of Federal project.

(2) Location of proposed work.

(3) Federal, State and local coordinations required and/or obtained.

(4) Date of public notice and public meeting or public hearings, if held, and summary of objections offered with comments of the District Engineer thereon. The comments should explain the objections and not merely refer to inclosed letters.

(6) Views of State and local authorities.

(7) Views of District Engineer concerning probable effect of the proposed disposal on:

(i) Navigation, present and prospective.

(ii) Flood heights and flood damage protection.

(iii) Beach erosion or accretion.

(iv) Conservation.

(v) Marine and wildlife.

(vi) Water Quality.

(vii) Aesthetics.

(viii) Ecology (General Environmental Concerns).

(ix) Historic values.

(x) Recreation.

(xi) Economy.

(xii) Water supply.

(xiii) Land use classifications and coastal zone management plans.

(xiv) Public Interest (Needs and Welfare of the People).

(8) Other Pertinent Remarks including, if applicable.

(i) Persistence and permanence of the effects of disposal of pollutants on the particular waterbody.

(ii) Effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

(iii) Other possible locations and methods of disposal or recycling of pollutants including land-based alternatives;

(iv) Effect on alternate uses of the affected waterbody such as mineral exploitation and scientific study.

(9) In addition, if the Administrator, EPA, indicates an intent to prohibit or restrict the use of a proposed dredge disposal site, the report shall also contain the following:

(i) The effect of not using the proposed disposal area on navigation, economic and industrial development, and foreign and domestic commerce in the affected region.

(ii) Other possible methods of disposal and appropriate locations for such alternate disposal.

(iii) Any resultant problems associated with the scheduling and scarcity of available dredging equipment.

(10) Conclusions.

(11) Recommendations including any proposed special procedures.

[FR Doc.74-16718 Filed 7-19-74;8:45 am]

Title 34—Government Management

CHAPTER II—OFFICE OF FEDERAL MANAGEMENT POLICY, GENERAL SERVICES ADMINISTRATION

SUBCHAPTER B—PROCUREMENT MANAGEMENT

PART 212—GOVERNMENT-WIDE PROCEDURES FOR PROCESSING PREAWARD PROTESTS AGAINST CONTRACT AWARD

FMC 74-3, dated July 12, 1974, establishes guidelines for the development by Federal agencies of regulations and preaward protest procedures which provide for prompt consideration and disposition of protests against the award of contracts and for the collection and maintenance of data which will aid in evaluation and improve the processing of future protests.

Part 212, Government-wide procedures for processing preaward protests against contract award, is added to read as set forth below.

Effective date. This regulation is effective immediately.

Dated: July 12, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

Sec.

AUTHORITY: E.O. 11717 (38 FR 12315, May 11, 1973).

§ 212.1 Purpose.

This part establishes guidelines for the development by Federal agencies of regulations and preaward protest procedures which provide for prompt consideration and disposition of protests against award of contracts and for the collection and maintenance of data which will aid in evaluation and improve the processing of future protests.

§ 212.2 Background.

As a general rule, the present regulations and procedures regarding protests against the award of contracts result in equitable disposition of protests by procuring agencies. However, unless effective procedures are available to cover all cases, there may be delays to protesters and other interested parties which may increase the overall cost of procurement and produce other adverse results. It is to the benefit of the Government and the public to ensure that treatment of this highly important area of the procurement process is pursued uniformly, timely, and with appropriate consideration of the interests involved.

§ 212.3 Policy intent.

(a) Executive agencies have a basic responsibility to handle and dispose of protests against the award of contracts. Protests against award of contracts shall be disposed of in an equitable and expeditious manner. Agency procedures for handling protests should be designed to encourage prompt administrative resolution of the protest where possible and encourage protesters to file their protests promptly with the cognizant procuring agency. Agency response to protesters, including consideration of views received from the General Accounting Office (GAO) when a protest is under consideration by that agency, should be objective and timely, reflecting uniform application of procurement procedures and regulations which ensure full consideration of the claim and the Government's requirements. Consideration of a protest should not be delayed or suspended except where unusual circumstances exist which justify such actions. After full consideration of all factors pertaining to a protest, including relevant laws, final disposition of the protest should be made promptly and prior to any procurement action.

(b) Agency regulations and procedures should require continuous review of procurement practices to identify and correct the type of situations that give rise to protests.

§ 212.4 Applicability and scope.

(a) These guidelines shall be applied by agencies to achieve maximum uniformity in developing regulations and procedures and for handling protests internally and in coordination with the GAO when protests are under consideration by that agency.

(b) Executive agencies are encouraged to resolve their differences with protesters as informally as possible. However, agency regulations shall require that

formal protests be submitted in writing to the agency. The executive agencies shall, in their regulations, designate officials to resolve protests at a sufficiently high level that detachment from the immediate controversy and independence of judgment are assured to the maximum extent practicable.

(c) The Federal Procurement Regulations (FPR) and the Armed Services Procurement Regulation (ASPR), or, where appropriate, agency regulations implementing the FPR or ASPR shall include the following requirements:

(1) *Processing time objectives.* Processing time objectives shall be established for each of the major steps in filing and in the handling and disposition of protests. Every reasonable effort shall be made to adhere to the established goals. As a minimum, time objectives shall be established for the following steps in the protest process:

(i) Filing of initial protest with the agency.

(ii) Filing of additional statements in support of the initial protest.

(iii) Submission of comments on the protest by interested parties, and

(iv) Agency decision on the protest.

(2) *Filing protests and furnishing information to interested parties.* Processing time factors shall be established governing the timely filing of protests and for the furnishing of information to all interested parties. Protests should be considered only when filed in a timely manner as prescribed by agency regulations.

(3) *Coordination with the GAO.* Each agency shall identify a single point of contact for each of its principal components to be responsible for all coordination with GAO in the handling of protests. Information called for by GAO in such cases shall be furnished as expeditiously as possible. Where it is anticipated that the processing time objectives established for coordination with GAO cannot be met, that office will be advised as soon as possible of the new expected reporting date by the designated point of contact. It is expected that response to a request for information called for by the GAO will not normally exceed an objective time of 25 working days.

(4) *Award during consideration of protest by the GAO.* (i) When an agency has received and considered all information and evaluated all pertinent factors available at the time pertaining to a protest and has made a determination with respect to its disposition, prompt action to effect an award or other justifiable disposition should be taken.

(ii) Except when delay pending completion of consideration of a protest by the GAO is likely to significantly prejudice the agency's programs or otherwise seriously disadvantage the Government, an agency may withhold disposition or award pending completion of the GAO consideration.

(5) *Award prior to resolution of protest.* (i) If an agency determines in its judgment that it would be in the best interest of the Government to make a prompt award, it may so proceed in a manner consistent with applicable procurement regulations without waiting for resolution of the protest, including a protest under consideration by the GAO. The following are examples of considerations that may justify such prompt award:

(A) The items to be procured are urgently required.

(B) Delivery or performance will be unduly delayed by failure to make award promptly.

(ii) No award shall be made under the provision of paragraph (c) (4) (i) of this section, unless it has been approved by an official at an appropriate management level above the contracting officer, as designated by the head of an agency. Prompt notice and explanation should be given to GAO when a decision is made to award or make other appropriate disposition prior to completion of consideration of a protest by GAO.

(6) *Documentation of protest actions.* In all instances, the disposition by an agency of a protest must be fully documented and approved prior to implementation. The approval must be in writing by an official at an appropriate management level above the contracting officer, as designated by the head of an agency.

§ 212.5 Responsibilities for notice and data.

(a) Agencies normally should ensure that all parties to a protest are timely informed of each pertinent development except to the extent that withholding of such information is required by law or regulation.

(b) Each agency will maintain adequate data showing the number and nature of formal protests received, their disposition and the time for resolution. Agencies will review such data annually and take such corrective action as may be indicated.

§ 212.6 Inquiries.

Further information concerning this part may be obtained by contacting:

General Services Administration (AMC), Washington, DC 20405.
Telephone: IDS 183-6201
FTS 202-343-6201

[FR Doc.74-16688 Filed 7-19-74;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

Subpart A—Copper, Nickel, Chromium, and Zinc on Nonferrous and Nonferrous Materials Subcategory

Correction

In FR Doc. 74-7066 appearing at page 11510 of the issue of Thursday, March 28, 1974, the following changes should be made:

1. In paragraph (d) of the preamble (page 11512), the title of the report appearing in the 9th-14th lines, now reading "Development Document for Effluent Limitations Guidelines for the Copper, Nickel, Chromium, and Zinc on Ferrous and Nonferrous Materials Manufacturing Segment of the Electroplating Point Source Category", should read, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Copper, Nickel, Chromium, and Zinc Segment of the Electroplating Point Source Category."

2. In § 413.11(d), the word "following" in the last line should read "followed".

3. In § 413.12(c), the figure "9.0" in the last line should read "9.5".

4. In the table in § 413.15(a), the following changes should be made in the "English units" portion: The "Maximum for any 1 day" for CN, total, now reading "16.2", should read "16.4"; and the "Average of daily values" for Cr, total and Zn, each reading "4.2", should each read "3.2".

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 131]

EMPLOYMENT OF THE HANDICAPPED

This amendment of the Federal Procurement Regulations adds Subpart 1-12.13, Employment of the Handicapped. The amendment implements the Rehabilitation Act of 1973, Executive Order 11758, January 15, 1974, and the regulations of the Secretary of Labor (20 CFR Part 741, 39 FR 20566, June 11, 1974). Under the contract clause and procedures prescribed by this amendment, contractors and subcontractors are required to take affirmative action to employ the handicapped. The contractual obligation is set forth in a three part clause. The applicability of the individual parts of the clause, each of which prescribes separate contractual obligations, depends upon the time of performance and the dollar amount of the contract. Increases in the contractual obligation occur in terms of times of performance and the contract amounts which exceed 90 days and $500,000, respectively. A solicitation certification also is prescribed which will become effective January 1, 1976. Administration of the requirements of the amendment will be based on complaints filed by a handicapped employee, handicapped applicant for employment, or an authorized representative.

PART 1-7—CONTRACT CLAUSES

The table of contents for Part 1-7 is changed to add new entries as follows:

Sec.	
1-7.102-21	Employment of the handicapped.
1-7.202-37	Employment of the handicapped.
1-7.602-14	Employment of the handicapped.
1-7.703-21	Employment of the handicapped.

Subpart 1–7.1—Fixed-Price Supply Contracts

Section 1–7.102–21 is added which reads as follows:

§ 1–7.102–21 Employment of the handicapped.

Insert the clause set forth in § 1–12.-1304–1 under the conditions contained in the section.

Subpart 1–7.2—Cost-Reimbursement Type Supply Contracts

Section 1–7.202–37 is added which reads as follows:

§ 1–7.202–37 Employment of the handicapped.

Insert the clause set forth in § 1–12.-1304–1 under the conditions contained in the section.

Subpart 1–7.6—Fixed-Price Construction Contracts

Section 1–7.602–14 is added which reads as follows:

§ 1–7.602–14 Employment of the handicapped.

Insert the clause set forth in § 1–12.-1304–1 under the conditions contained in the section.

Subpart 1–7.7—Transportation Contracts

Section 1–7.703–21 is added which reads as follows:

§ 1–7.703–21 Employment of the handicapped.

Insert the clause set forth in § 1–12.-1304–1 under the conditions contained in the section.

PART 1–12—LABOR

The table of contents for Part 1–12 is changed to add new entries as follows:

Subpart 1–12.13—Employment of the Handicapped

Subpart 1–12.13 is added which reads as follows:

Subpart 1–12.13—Employment of the Handicapped

§ 1–12.1300 Scope of subpart.

This subpart prescribes policies and procedures regarding the employment of qualified, handicapped individuals.

§ 1–12.1301 General.

(a) The Rehabilitation Act of 1973, and Executive Order 11758, January 15, 1974, provide for the employment of the handicapped. Implementing policies and procedures were published by the Secretary of Labor on June 5, 1974, in 20 CFR 741 (39 FR 20566, June 11, 1974). Section 503 of the Act requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals.

(b) The policies and procedures in this subpart implement the regulations of the Secretary of Labor and apply to all Government contracts for personal property or nonpersonal services (including construction) in excess of $2,500. The subpart does not apply to any action taken to effect compliance with respect to employment or participation in Federal grant programs under section 504 of the Act.

§ 1–12.1302 Definitions.

(a) The term "Act" means the Rehabilitation Act of 1973, Public Law 93–112.

(b) The term "Affirmative action clause" means the Employment of the Handicapped clause set forth in § 1–12.1304–1.

(c) The term "agency" means any contracting agency of the Government.

(d) The term "Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his designee.

(e) The term "certification" means a signed statement which is issued as a service of such qualified vocational rehabilitation agencies or facilities listed by the Employment Standards Administration and which describes the handicapped individual's disabilities.

(f) The term "construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of building, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

(g) The term "contract" means any Government contract for the procurement of personal property or non-personal services, including construction.

(h) The term "contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned Government corporation, which enters into contracts.

(i) The term "contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

(j) The term "Employment Standards Administration" means the Employment Standards Administration of the United States Department of Labor, its regional and area offices and any division, branch, or bureau thereof engaged in activities under this regulation.

(k) The term "Government" means the Government of the United States of America.

(l) The term "Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of personal property or nonpersonal services or for the use of real or personal property, including lease arrangements. The term "services," as used in this section includes, but is not limited to the following services: utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employees, and (2) federally-assisted contracts.

(m) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial barrier to employment, provided such individual has reasonably benefited in terms of employability from any of the types of services (including certification) provided pursuant to Titles I and III of the Act or their equivalent.

(n) The term "modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

(o) The term "person" means any natural person, corporation, partnership or joint venture, unincorporated, association, State or local government, and any agency, instrumentality, or subdivision of such a government.

(p) The term "prime contractor" means any person holding a contract, and for the purposes of Subpart B of the regulations of the Secretary of Labor (20 CFR Part 741), any person who has held a contract subject to the Act.

(q) The term "procurement activity" means the organizational element of a Federal agency which has responsibility to contract for the procurement of personal property or nonpersonal services, including construction.

(r) The term "recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

(s) The term "rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (d) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the Act.

(t) The term "Secretary" means the Secretary of Labor, U.S. Department of Labor, or his designee.

(u) The term "subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(v) The term "subcontractor" means any person holding a subcontract and, for the purposes of Subpart B of the regulations of the Secretary of Labor (20 CFR Part 741), any person who has held a subcontract subject to the Act. The term "first-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(w) The term "United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa, and the Trust Territory of the Pacific Islands.

§ 1–12.1303 Solicitation certification.

(a) *Certification requirement.* The following certification shall be included in all invitations for bids and requests for proposals for contracts to be awarded after January 1, 1976.

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The offeror certifies with respect to the Employment of the Handicapped clause as follows:

1. He [ ] has, [ ] has not previously been awarded a contract which included the clause. (*If affirmative, execute 2.*)

2. The time specified for contract performance [ ] exceeded 90 days, [ ] did not exceed 90 days. (*If more than 90 days, execute 3*).

3. The amount of the contract was [ ] less than $500,000, [ ] more than $500,000, and he [ ] has, [ ] has not published his program for the employment of the handicapped. (*If more than $50,000, execute 4.*)

4. He [ ] has, [ ] has not submitted the required annual report to the Assistant Secretary of Labor for Employment Standards.

5. He [ ] has, [ ] has not made a good faith effort to effectuate and carry out his affirmative action program.

6. He will not award subcontracts to persons or concerns that have not published programs and submitted annual reports as required by the clause.

(b) *Award of contracts.* The procedures in this paragraph (b) are effective January 1, 1976, for all nonexempt contracts.

(1) The certification required by this section shall be executed by all offerors prior to the award of a contract.

(2) Failure to execute the certificate shall be deemed a defect in form and not in substance, and the bidder or offeror shall be permitted to satisfy the requirements prior to award (see § 1–2.405).

(3) Awards shall not be made where the certifications indicate that required programs have not been published or annual reports have not been submitted to the Assistant Secretary of Labor for Employment Standards, or a good faith effort has not been made to effectuate and carry out affirmative action program.

(c) *Criteria for good faith efforts.* By October 1, 1975, the Assistant Secretary will promulgate criteria for defining good faith "effort" to effectuate and carry out an affirmative action program.

§ 1–12.1304 Contracts.

§ 1–12.1304–1 Affirmative action clause.

The contract clause prescribed by this section shall be included in each nonexempt Government contract (and modifications thereof if not included in the original contract).

EMPLOYMENT OF THE HANDICAPPED

(This clause applies to all nonexempt contracts and subcontracts which exceed $2,500 as follows: (1) Part A applies to contracts and subcontracts which provide for performance in less than 90 days, (2) Parts A and B apply to contracts and subcontracts which provide for performance in 90 days or more and the amount of the contract or subcontract is less than $500,000, and (3) Parts A, B, and C apply to contracts and subcontracts which provide for performance in 90 days or more and the amount of the contract or subcontract is $500,000 or more.)

PART A

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees that, if a handicapped individual files a complaint with the Contractor that he is not complying with the requirements of the Act, he will (1) investigate the complaint and take appropriate action consistent with the requirements of 20 CFR 741.29 and (2) maintain on file for 3 years, the record regarding the complaint and the actions taken.

(c) The Contractor agrees that, if a handicapped individual files a complaint with the Department of Labor that he has not complied with the requirements of the Act, (1) he will cooperate with the Department in its investigation of the complaint, and (2) he will provide all pertinent information regarding his employment practices with respect to the handicapped.

(d) The Contractor agrees to comply with the rules and regulations of the Secretary of Labor in 20 CFR Ch VI, Part 741.

(e) In the event of the Contractor's noncompliance with the requirements of this clause, the contract may be terminated or suspended in whole or in part.

(f) This clause shall be included in all subcontracts over $2,500.

PART B

(g) The Contractor agrees (1) to establish an affirmative action program, including appropriate procedures consistent with the guidelines and the rules of the Secretary of Labor, which will provide the affirmative action regarding the employment and advancement of the handicapped required by Public Law 93–112, (2) to publish the program in his employee's or personnel handbook or otherwise distribute a copy to all personnel, (3) to review his program on or before March 31 of each year and to make such changes as may be appropriate, and (4) to designate one of his principal officials to be responsible for the establishment and operation of the program.

(h) The Contractor agrees to permit the examination by appropriate contracting agency officials or the Assistant Secretary for Employment Standards or his designee, of pertinent books, documents, papers, and records concerning his employment and advancement of the handicapped.

(i) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Assistant Secretary for Employment Standards, provided by the contracting officer stating the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights and remedies available.

(j) The Contractor will notify each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

PART C

(k) The Contractor agrees to submit a copy of his affirmative action program to the Assistant Secretary for Employment Standards within 90 days after the award to him of a contract or subcontract.

(l) The Contractor agrees to submit a summary report to the Assistant Secretary for Employment Standards by March 31 of each year during performance of the contract, and by March 31 of the year following completion of the contract, in the form prescribed by the Assistant Secretary, covering employment and complaint experience, accommodations made, and all steps taken to effectuate and carry out the commitments set forth in the affirmative action program.

§ 1–12.1304–2 Affirmative action policy.

(a) *General requirements.* Under the affirmative action obligation imposed by section 503 of the Rehabilitation Act of 1973, contractors are required to take affirmative action to employ and advance

in employment qualified handicapped individuals. Such action shall apply to employment practice, including, but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Contractors shall review their employment practices to determine whether their programs provide the required affirmative action for employment and advancement of qualified handicapped individuals. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all of the listed activities. The scope of a contractor's efforts shall depend upon all the circumstances, including the extent in which existing employment practices are adequate and the contractor's size and resources.

(1) Internal communication of the contractor's obligation to engage in affirmative action efforts to employ qualified handicapped individuals in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory, and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) Development of reasonable internal procedures to ensure that the contractor's obligation to engage in affirmative action to employ and promote qualified handicapped individuals is being fully implemented.

(3) Periodically informing all employees of the contractor's commitment to engage in affirmative action to increase employment opportunities for qualified handicapped individuals.

(4) Enlisting the assistance and support of all recruiting sources (including the State Employment Services, State vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, State education agencies, labor organizations, and social service organizations serving handicapped individuals) for the contractor's commitment to provide meaningful employment opportunities to qualified handicapped individuals. (A list of national organizations serving the handicapped, many of which have State or local affiliates, is found in the "Directory of Organizations Interested in the Handicapped," published by the People to People Committee on the Handicapped, 1146 16th Street, NW., Washington, DC 20036.)

(5) Engaging in recruitment activities at educational institutions which participate in training of the handicapped, such as schools for the blind, deaf, or retarded.

(6) Establishment of meaningful contacts with appropriate social service organizations, Vocational Rehabilitation agencies or facilities, for such purposes as advice, technical assistance and referral of potential employees.

(7) Reviewing employment records to determine the availability of promotable and transferrable qualified handicapped individuals presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(8) Use of appropriate media for institutional and employment advertising to indicate the contractor's commitment to nondiscrimination and affirmative action under this part.

(c) *Accommodation to physical and mental limitations of employees.* A contractor must attempt to make a reasonable accommodation to the physical and mental limitations of an employee or applicant unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) business necessity, (2) financial costs and expenses, and (3) resulting personnel problems.

§ 1–12.1304–3 Adaptation of language.

Changes in language of the Employment of the Handicapped clause may be made as appropriate to identify properly the parties and their undertakings.

§ 1–12.1304–4 Incorporation by reference.

The Employment of the Handicapped clause may be incorporated by reference in Government transportation requests, contracts for deposit of Government funds, contracts for issuing and paying U.S. savings bonds and notes, contracts and subcontracts less than $50,000, and such other contracts as the Assistant Secretary may designate.

§ 1–12.1304–5 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the Employment of the Handicapped clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this Subpart 1–12.13 and to include such a clause whether or not it is physically incorporated in such contracts. The clause may also be applied by agency regulations to every nonexempt contract where there is no written contract between the agency and the contractor.

§ 1–12.1304–6 Noncompliance with the Affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the Employment of the Handicapped clause is a ground for the imposition by the agency, the Assistant Secretary, prime contractor, or subcontractor of appropriate sanctions. Any such failure shall be reported in writing to the Assistant Secretary by the agency as soon as practicable after it occurs.

§ 1–12.1305 Subcontracts.

Each nonexempt prime contractor and subcontractor under a Government contract shall include the Employment of the Handicapped clause prescribed in § 1–12.1304–1 in each of their nonexempt subcontracts.

§ 1–12.1306 Exemptions.

§ 1–12.1306–1 General.

(a) *Transactions not exceeding $2,500.* Contracts and subcontracts not exceeding $2,500 are exempt from the requirement of the Employment of the Handicapped clause. No agency, contractor, or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the clause.

(b) *Contracts and subcontracts for indefinite quantities.* With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the Employment of the Handicapped clause shall be included unless the procuring activity has reason to believe that the amount to be ordered in any year under such contract will not exceed $2,500. The applicability of the clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the clause shall be applied to such contract whenever the amount of a single order exceeds $2,000. Once the clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(c) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the Employment of the Handicapped clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(d) *Contracts with State or local governments.* The requirements of the Employment of the Handicapped clause in any contract or subcontract with a State or local government (or any agency, instrumentality, or subdivision thereof) shall not be applicable to any agency, instrumentality, or subdivision of each government which does not participate in work on or under the contract or subcontract.

(e) *Facilities not connected with contracts.* The Assistant Secretary may exempt from the requirements of the Employment of the Handicapped clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the Act.

§ 1–12.1306–2 Waivers.

(a) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Assistant Secretary, may exempt any contract or subcontract from any or all of the provisions

of the Employment of the Handicapped clause when he deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Assistant Secretary, may also exempt groups or categories of contracts or subcontracts of the same type where it is (1) in the national interest, (2) found impracticable to act upon each request individually, and (3) where group exemption will substantially contribute to convenience in administration of section 503 of the Act.

(b) *National security.* Any requirement set forth in this Subpart 1–12.13 shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Assistant Secretary in writing within 30 days.

§ 1–12.1306–3 Withdrawal of exemption.

When any contract or subcontract is of a class exempted under § 1–12.1306–1 other than contracts exempted under paragraph (b) of this section, the Assistant Secretary may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the Act. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 1–12.1307 Administration.

§ 1–12.1307–1 Duties of contracting agencies.

(a) *General responsibility.* Each agency shall cooperate with the Assistant Secretary in the performance of his responsibilities under the Act.

(b) *Designation of agency official.* The head of each agency, or his designee, shall identify and submit to the Assistant Secretary the name, address, and telephone number of the official within the agency who is primarily responsible for implementation of this program within the agency.

§ 1–12.1307–2 Certification of handicap.

(a) Any handicapped individual may request, at any time, a certification of his handicap from any Vocational Rehabilitation agency or facility listed by the Employment Standards Administration. Such lists shall be available through local U.S. Department of Labor, Employment Standards Administration offices. The certification shall be in the form prescribed by the Secretary and shall represent the determination of a facility listed by the Employment Standards Administration that the individual is handicapped and has benefited in employability from a type of service provided pursuant to Titles I and III of the Act or their equivalent.

(b) Handicapped individuals filing administrative complaints under § 1–12.1308 may do so only upon certification of their handicapping disability or condition as provided in paragraph (a) of this section.

§ 1–12.1307–3 Listing of employment openings.

The mandatory listing obligation of Subpart 1–12.11, which requires contractors to list their job openings with State employment services offices will be utilized by State employment security agencies to refer qualified handicapped individuals.

§ 1–12.1307–4 Labor unions and recruiting and training agencies.

(a) Whenever performance in accordance with the Employment of the Handicapped clause or any matter in this Subpart 1–12.13 may necessitate a revision of a collective bargaining agreement, the labor union or unions which are parties to such agreements shall be given an adequate opportunity to present their views to the contracting agency, or, if he has assumed jurisdiction, the Assistant Secretary.

(b) The Secretary will use his best efforts, directly and through contractors, subcontractors, local officials, vocational rehabilitation facilities, and all other available instrumentalities, to cause any labor union, recruiting and training agency, or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to assist in the implementation of, the purposes of the Act.

§ 1–12.1307–5 Evaluations by Assistant Secretary.

The Assistant Secretary will undertake such evaluations as may be necessary to assure that the purposes of section 503 of the Rehabilitation Act of 1973 are being effectively carried out.

§ 1–12.1307–6 Assumption of jurisdiction by the Assistant Secretary.

(a) The Assistant Secretary may inquire into the status of any matter pending before an agency, including complaints and matters arising out of reports, reviews, and other investigations. Where he considers it necessary or appropriate to achieve the purposes of the Act, he will assume jurisdiction over complaints, advise the contracting agency, and proceed as provided herein. Whenever the Assistant Secretary assumes jurisdiction over any matter, he may conduct, or have conducted, such investigation, hold such hearings, make such findings, issue such recommendations, and request the contracting agencies to take such action as may be appropriate. The agency shall take such action, as may be appropriate, and report the results thereof to the Assistant Secretary within the time specified.

(b) Hearings convened by the Assistant Secretary will be conducted in accordance with the rules and regulations promulgated by the Secretary of Labor under the Service Contract Act at 29 CFR Part 6.

§ 1–12.1307–7 Actions for nonperformance.

(a) *General.* In every case where any complaint investigation indicates the existence of a violation of the Employment of the Handicapped clause or these regulations, the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include, where appropriate, establishing a program for future performance. Where the apparent violation is not resolved by informal means the agency shall proceed in accordance with established agency procedures.

(b) *Specific performance and/or breach.* The agency or Assistant Secretary may, as an alternative or supplement to the administrative remedies set forth herein, seek appropriate judicial relief for breach of contract or specific performance of the affirmative action clause of the contract or both.

(c) *Withholding progress payments.* So much of the accrued payment due on the contract or any other contract between the Government prime contractor and the Federal Government may be withheld as is authorized under applicable procurement law to correct any violations of the provisions of the Employment of the Handicapped clause.

(d) *Termination.* A contract or subcontract may be suspended or terminated, in whole or in part, for failure to comply with the provisions of the Employment of the Handicapped clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the Employment of the Handicapped clause.

§ 1–12.1307–8 Disputed matters related to the affirmative action program.

Disputes related to matters pertaining to the affirmative action program shall be handled pursuant to standard agency procedures for Government contracts and subcontracts unless the Assistant Secretary has assumed jurisdiction under § 1–12.1307–6 in which case the procedures set forth in that section shall apply.

§ 1–12.1307–9 Notification of agencies.

The Assistant Secretary of Labor shall notify the heads of all agencies of any sanctions taken against any contractor after such sanctions have been imposed. No agency may issue a waiver under § 1–12.1306–2(a) to any contractor subject to sanctions without prior approval of the Assistant Secretary.

§ 1–12.1307–10 Intimidation and interference.

The sanctions and penalties in this regulation may be exercised by the agen-

cy or the Assistant Secretary against any prime contractor or subcontractor who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, performance, evaluation, hearing, or any other activity related to the administration of the Act.

§ 1–12.1307–11 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to his places of business, books, records, and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto by the agency or the Assistant Secretary for the purposes of evaluations and investigations of performance under the Employment of the Handicapped clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 1–12.1307–12 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations of the Secretary of Labor shall be made by the Secretary or his designee.

§ 1–12.1308 Complaints.

§ 1–12.1308–1 Filed with contractors and subcontractors.

(a) Any handicapped employee of any contractor or handicapped applicant for employment with such contractor or subcontractor may, by himself or by an authorized representative, file in writing a complaint of alleged violation of the Employment of the Handicapped clause with the contractor or subcontractor. Where established, contractors and subcontractors shall utilize their internal review procedure, which may be governed by the terms of an applicable collective bargaining agreement generally meeting the requirements of this paragraph, to receive complaints from handicapped employees alleging the employer's failure to promote or advance them in employment or otherwise failing to comply with the Act. Procedures utilized under this paragraph shall provide for fair, expeditious, and effective processing of complaints. Actions under these procedures shall be processed to completion within 60 days after the complaint is filed. At the completion of the review and appropriate action thereunder, the employer shall inform the complainant of his right to file a complaint with the Department of Labor if the decision is adverse to the employee. A statement describing the procedures under this § 1–12.1308 shall be disseminated to all employees in an effective manner.

(b) No employee may file an administrative complaint with the Employment Standards Administration of the Department of Labor until the internal review procedure, where available, has been accorded 60 days to resolve the matter.

(c) If a contractor does not have an internal review procedure, employees may file administrative complaints direct with the Department of Labor.

§ 1–12.1308–2 Filed with Department of Labor.

(a) Any handicapped employee of any contractor or handicapped applicant for employment with such contractor may, by himself or by an authorized representative, file in writing a complaint of alleged violation of the Employment of the Handicapped clause. Complaints shall be filed with the nearest office of the Employment Standards Administration of the Department of Labor not later than 180 days from the date of the alleged violation unless the time for filing is extended by the Assistant Secretary upon good cause shown (see § 1–12.1308–1(c)).

(b) The Department of Labor may refer complaints to the contracting agency, or in the case of multiple contracting agencies, the contracting agency designated by the Assistant Secretary for processing, or they may be processed in accordance with § 1–12.1307–6.

(c) Complaints will be required to be signed by the complainants or their authorized representatives and to contain the following information: (1) name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a brief statement describing the complainant's job skills or training, if any, job experience or other qualifications for the position, (5) a copy of the complainant's certification, and (6) other pertinent information available which will assist in the investigation and resolution of the complaint including the name of the Federal agency with which the employer has contracted.

(d) Where a complaint contains incomplete information, the agency or the Assistant Secretary will promptly seek the needed information from the complainant. In the event such information is not furnished to the agency or the Assistant Secretary within 60 days of the date of such request, the case may be closed.

§ 1–12.1308–3 Appeals.

Upon final resolution of a complaint by the agency, the complainant shall be furnished with a copy of the decision. The complainant may file an appeal with the Secretary requesting assumption of jurisdiction under the provisions of § 1–12.1307–6. The Secretary will review the complaint and all relevant material related thereto, including the decision issued by the agency head. If he determines that assumption of jurisdiction under § 1–12.1307–6 is necessary or appropriate to achieve the purposes of the Act, he will notify the complainant and agency, and take whatever action he deems appropriate in accordance with the provisions set forth therein.

§ 1–12.1308–4 Processing of matters by agencies.

(a) *Investigations.* The agency shall institute a prompt investigation of each complaint referred to it, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) name and address of each person interviewed, (2) a summary of his statement, (3) copies or summaries of pertinent documents, (4) a narrative summary of the evidence disclosed in the investigation as it relates to each charge, and (5) recommended resolution and/or actions.

(b) *Resolution of matters.* (1) If the investigation of a complaint by an agency pursuant to paragraph (a) of this section shows no violation of the Employment of the Handicapped clause, the agency shall so inform the Assistant Secretary. The Assistant Secretary shall periodically review such findings of the agency, and he may request further investigation by the agency or may undertake such investigation as he may deem appropriate. (2) If any complaint investigation indicates a violation of the Employment of the Handicapped clause, the matter should be resolved by informal means whenever possible. (3) Complaint-initiated hearings shall be conducted in accordance with established agency procedures, except that where the Assistant Secretary has assumed jurisdiction hearings shall be conducted in accordance with the procedures set forth under the Service Contract Act in 29 CFR Part 6. (4) For reasonable cause shown, the Assistant Secretary or his designee or an agency head may reconsider or cause to be reconsidered any matter on his own motion or pursuant to a request from the complainant or contractor.

(c) *Reports to the Assistant Secretary.* Within 60 days from receipt of a complaint by the agency, or within such additional time as may be allowed by the Assistant Secretary for good cause shown, the agency shall process the complaint and submit to the Assistant Secretary the case record and a summary report containing the following information: (1) name and address of the complainant; (2) brief summary of findings, including a statement as to the agency's conclusions regarding the contractor's compliance or noncompliance with the requirements of the Employment of the Handicapped clause; (3) a statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, when appropriate, the recommended corrective action and sanctions and penalties.

§ 1–12.1309 Hearings.

(a) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the agency

or Assistant Secretary in any of the following circumstances:

(1) An apparent violation of the Employment of the Handicapped clause by a contractor or subcontractor, as shown by any complaint investigation, is not resolved by informal means and a hearing is requested pursuant to § 1–12.1308–4(b)(3); or

(2) The Assistant Secretary or an agency proposes to debar the prime contractor or subcontractor and a hearing is requested pursuant to § 1–12.1308–4(b)(3).

(b) *General procedure.* The Assistant Secretary or the agency head, with the approval of the Assistant Secretary may convene formal hearings pursuant to this § 1–12.1309. Such hearings shall be conducted in accordance with procedures prescribed by the contract, unless the Assistant Secretary has assumed jurisdiction under § 1–12.1307–6, in which case hearings shall be conducted as prescribed in 29 CFR Part 6.

(c) *Decision following hearing.* When the hearing is convened by the Assistant Secretary under the rules set forth in 29 CFR Part 6, the Administrative Law Judge will make recommendations to the Assistant Secretary who will make the final decision. Parties will be furnished with copies of the Administrative Law Judge's recommendations and will be given an opportunity to file their exceptions to the recommended decisions.

(d) *Debarment by an agency.* No decision of an agency to debar a contractor or subcontractor shall be final without the prior approval of the Assistant Secretary.

§ 1–12.1310 List of ineligible contractors.

§ 1–12.1310–1 Distribution of list.

The Assistant Secretary will distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the Act, and the regulations of the Secretary of Labor.

§ 1–12.1310–2 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Assistant Secretary. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the Employment of the Handicapped clause.

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101(c) is revised as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) *General Provisions (Supply Contract) (Standard Form 32, November 1969 edition).* Pending the publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1–7.103–3 shall be substituted for the provision entitled Examination of Records in Article 10, the Convict Labor clause prescribed by § 1–12.204 shall be substituted for the Convict Labor clause in Article 15, the Utilization of Labor Surplus Area Concerns clause prescribed by § 1–1.805–3(a) shall be substituted for the provision entitled Utilization of Concerns in Labor Surplus Areas in Article 22, the Payment of Interest on Contractors' Claims clause set forth in § 1–1.322(b), the Utilization of Minority Business Enterprises clause set forth in § 1–1.1310–2(a), the Pricing of Adjustments clause set forth in § 1–7.102–20, the Listing of Employment Openings clause set forth in § 1–12.1102–2, and the Employment of the Handicapped clause set forth in § 1–12.1304–1 shall be added as additional articles of the General Provisions.

* * * * *

Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401 is amended as follows:

§ 1–16.401 Forms prescribed.

* * * * *

(a) *Invitation, Bid and Award (Construction, Alteration or Repair) (Standard Form 19, July 1973 edition).* Pending the publication of a new edition of the form, the Convict Labor clause prescribed by § 1–12.204 shall be substituted for the Convict Labor clause in Article 10, and the Employment of the Handicapped clause in § 1–12.1304–1 shall be added as an additional article of the General Provisions.

* * * * *

(h) *General Provisions (Construction Contract) (Standard Form 23–A, October 1969 edition).* Pending the publication of a new edition of the form, the Convict Labor clause prescribed by § 1–12.204 shall be substituted for the Convict Labor clause in Article 20, and the Payment of Interest on Contractors' Claims clause set forth in § 1–1.322(b), the Utilization of Minority Business Enterprises clause set forth in § 1–1.1310–2(a), the Pricing of Adjustments clause set forth in § 1–7.602–12, the Listing of Employment Openings clause set forth in § 1–12.1102–2, and the Employment of the Handicapped clause set forth in § 1–12.1304–1 shall be added as additional articles of the General Provisions.

* * * * *

Subpart 1–16.7—Forms for Negotiated Architect-Engineer Contracts

Section 1–16.701(b) is revised as follows:

§ 1–16.701 Forms prescribed.

* * * * *

(b) *General Provisions (Architect-Engineer Contract) (Standard Form 253, August 1970 edition).* Pending the publication of a new edition of the form, the Examination of Records by Comptroller General clause prescribed by § 1–7.103–3 of this chapter shall be substituted for the provision entitled Examination of Records in Article 8, the Convict Labor clause prescribed by § 1–12.204 shall be substituted for the Convict Labor clause in Article 12, and the Payment of Interest on Contractors' Claims clause set forth in § 1–1.322(b), the Pricing of Adjustments clause prescribed by § 1–7.602–12, the Listing of Employment Openings clause set forth in § 1–12.1102–2, and the Employment of the Handicapped clause set forth in § 1–12.1304–1 shall be added as additional articles of the General Provisions.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective July 11, 1974.

Dated: July 11, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74–16667 Filed 7–19–74;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–146]

PART 101–25—GENERAL

Office Machines

This regulation estsablishes use and replacement standards for electronic office machines and updates use and replacement standards for electric and nonelectric office machines.

The table of contents for Part 101–25 is amended to include the following revised entries:

101–25.302–4 Figuring machines.
101–25.302–6 Electronic office machines.

Subpart 101–25.3—Use Standards

1. Section 101–25.302–4 is amended to read as follows:

§ 101–25.302–4 Figuring machines.

Standards for the use of figuring machines shall be established by each agency in consonance with the minimum standards prescribed in this § 101–25.302–4. Figuring machines include adding machines and calculators, manually or electrically operated, listing or nonlisting (excluding the electronic type), but do not include posting or accounting machines.

(a) * * *

(3) Figuring machines shall be used if the operation to be performed contains a volume of work which is impractical to accomplish by the use of slide rules or computation tables.

* * * * *

2. Section 101–25.302–6 is added as follows:

§ 101–25.302–6 Electronic office machines.

Standards for the use of electronic office machines shall be established by each agency in consonance with the minimum standards prescribed by this § 101–25.302–6. Electronic office machines

are those machines having electronic components as opposed to manually or electrically operated machines. Electronic office machines include calculators (programable and nonprogramable, portable and desk top, printing, display, and combination print/display types); accounting machines (electronic programable, nonwriting (numeric), and writing (alphanumeric)); and cash registers (electronic terminals).

(a) Battery operated machines shall be used if electric current is not conveniently available or portability is required, if reasonable protection is desired against emergency shutdown (e.g., continued power failure or civil defense dispersal), or where limited use does not warrant electric machines.

(b) Electronic listing machines (adding machines and calculators) shall be used if it is determined that printed results are necessary to the operation.

(c) Electronic calculators shall be used if the accuracy or complexity of computations is impractical to accomplish in an expeditious manner by means of slide rules, computation tables, and figuring machines. (See § 101-25.302-4.)

NOTE: The provisions of this Subpart do not apply to automatic data processing equipment and related equipment which are governed by the procedures prescribed in Part 101-32.

Subpart 101-25.4—Replacement Standards

Section 101-25.403 is amended to read as follows:

§ 101-25.403 Office machines.

Replacement of office machines shall be in accordance with the standards prescribed in paragraphs (a), (b), and (c) of this section. The acquisition cost of comparable machines may be obtained from applicable Federal Supply Schedules with due consideration given to prices obtainable when the quantities involved exceed the maximum order limitation. In such instances, price information, unless available within the agency, may be obtained from the contracting office indicated in the schedule. Estimated repair or overhaul costs shall be obtained from contractors providing the service under GSA term contracts, where provided, or at the lowest rate available from other sources. The cost obtained shall include transportation costs.

(a) Electrically operated office machines (typewriters, adding machines, and desk calculators (excluding the electronic type)) under 12 years of age or manually operated office machines under 15 years of age shall not be replaced unless:

* * * * *

(b) Electronic office machines (calculators, accounting machines, and cash registers) shall be replaced after expiration of the warranty period if repair costs exceed 80 percent of the replacement cost of a comparable new model.

(c) Notwithstanding the limitations prescribed in (a) or (b) of this section, office machines may be replaced under the following conditions provided a written justification supporting such replacement is approved by the agency head or an authorized designee and is retained in the agency files:

(1) In those instances in which there is a continuing history of breakdowns with corresponding loss of productivity through downtime;

(2) When the cumulative repair costs on a machine appear to be excessive, based upon the personal knowledge of the machine operator or supervisor and as indicated by repair records. However, the fact that a machine accrues repair costs equal to the acquisition cost is not necessarily indicative of the current condition of a machine. For example, a substantial repair expenditure included in the cumulative cost may actually have resulted in restoring the machine to as good as new condition. While cumulative repair costs suggest an area for investigation, they should not be used as the principal factor in the repair/replacement decision making process;

(3) When repair parts are not available causing a machine to be out of service for an excessive amount of time; or

(4) When a machine lacks essential features required in the performance of a particular task which is continuing in nature and other suitable machines are not available.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective on July 22, 1974.

Dated: July 12, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-16000 Filed 7-19-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 251]

FINANCIAL AID PROGRAM PROCEDURES

Fishery for American Lobster in the Gulf of Maine

Notice is hereby given that the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, has under consideration an amendment to the regulations (50 CFR Part 251) which sets forth financial aid program procedures.

It is the intent of Part 251 of this chapter that financial assistance programs will not be made available when upon review of situations and conditions at hand, as well as prospective developments, the Director deems that the use of such financial assistance programs would not be consistent with the wise use and with the development, advancement, management, conservation, and protection of fisheries resources.

The proposed amendment, as set forth below, would incorporate in Subpart B of the regulations a new § 251.22 to classify the "fishery for American lobster in the Gulf of Maine" as a Conditional Fishery as the term is defined in § 251.1(i).

The principal situations and conditions under consideration for determining that the "fishery for American lobster in the Gulf of Maine" is in need of regulation under Part 251 of this chapter are described in the following Explanatory Statement.

Federal and State agencies as well as the public will be given time and opportunity to comment on this proposed amendment. Comments that are received will be evaluated giving full consideration to the national interest and the multiplicity of environmental, biological, economic, social, and other situations and conditions as the Director may deem relevant. Upon evaluation of all comments and available information the Director will take action as may be appropriate and will continue to monitor and assess situations and conditions related to the "fishery for American lobster in the Gulf of Maine" to determine the continued need for regulation. This proposed amendment is published pursuant to the authority contained in section 4 of the Fish and Wildlife Act, 1956, as amended, Title XI of the Merchant Marine Act, 1936, as amended. section 607 of the Merchant Marine Act, 1936, as amended, the National Environmental Policy Act, and Reorganization Plan No. 4 of 1970.

Written views, data, or arguments on this proposed amendment should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All communications received on or before October 21, 1974, will be considered before action is taken with respect to adoption of the proposed amendment. No public hearing is contemplated at this time; however, any persons desiring a public hearing may request such a hearing by writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235. In the event that a public hearing is found necessary, an appropriate notice to that effect will be published in the FEDERAL REGISTER.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

JULY 12, 1974.

Explanatory statement. The Director considers it necessary to classify the "fishery for American lobster (*Homarus americanus*) in the Gulf of Maine" as a Conditional Fishery for regulation under Part 251 of this chapter. For the purposes of this regulation, the Gulf of Maine lobster fishery is defined to include all waters west of an *imaginary* line drawn between Race Point Light, Massachusetts and Frenchman Point, Nova Scotia. The necessary situations and conditions for such classification follow.

Programs to conserve and manage the fishery for American lobster in the Gulf of Maine have relied generally on controlling the minimum size at which lobsters may be legally harvested and on restricting the harvesting of egg-bearing female lobsters; but these programs do not restrict the number of vessels or the units of fishing gear, i.e., lobster traps, which may be used in this fishery.

Scientific studies of Gulf of Maine American lobsters indicate that 90 percent or more of the available legal size Maine lobsters are caught each year, and that the majority of Maine lobsters reach minimum legal size (3 and 5/16 inches carapace length in Maine) when they are from 5 to 7 years old which is before most female lobsters have reached sexual maturity thus obviating any opportunity for them to spawn. Further, some wastage of lobsters is inevitable when lobsters are caught in traps which cannot be recovered by fishermen and such wastage probably increases with increased numbers of traps used in this fishery.

The estimated annual maximum sustainable yield from the Maine lobster fishery is about 22 million pounds. This amount was harvested in 1962 when about 5,600 craft, employing some 750,000 traps, were engaged in this fishery. During recent years, annual Maine lobster landings have decreased to about 10 to 20 percent below the estimated annual maximum sustainable yield while the number of craft has increased more than 10 percent and the number of traps fished has increased more than 70 percent. It is considered, therefore, that currently there are more craft and traps than needed to harvest the estimated annual maximum sustainable yield from the Maine lobster fishery. Upon review of, among other things, the facts set forth herein, Maine recently enacted legislation to limit the number of lobster licenses as part of its conservation and management program.

Consequently, the Director is considering that the "fishery for American lobster in the Gulf of Maine" should be a Conditional Fishery in accordance with Part 251 of this chapter as it now appears that the use of financial assistance programs to add vessel capacity which would lead to an increase in the number of traps being employed in this fishery would not be consistent with the needs and objectives of management.

It is proposed to amend Part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.22 as follows:

§ 251.22 Fishery for American lobster *(Homarus americanus)* in the Gulf of Maine.

[FR Doc.74-16653 Filed 7-19-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

PROCESSED RAISINS

Grade Standards

Correction

In FR Doc. 74-15065 appearing on page 24515 in the issue of July 3, 1974 the following portion of Table I on page 24516 should read as set forth below:

Substandard and undeveloped	Total	Maximum undeveloped	Total	Maximum undeveloped	Total	Maximum undeveloped
Select size	1	1/4	1 1/4	1/4	2	1
Mixed size	1	1	2	1	3	1
Small (midget) size	2	1	3	2	5	3

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1020]

DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

Proposed Amendments Regarding Radiation Therapy Simulation Systems

Pursuant to the authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (Public Law 90–602, 42 U.S.C. 263b et seq.), the Commissioner of Food and Drugs hereby proposes to amend the performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30, 1020.31, and 1020.32) by changing the applicability of specific provisions of this standard with respect to those x-ray systems intended for radiation therapy simulation.

Radiation therapy simulation systems are fluoroscopic x-ray systems used by the radiation therapist primarily to plan treatment programs which are subsequently performed by high-energy radiation therapy units, such as cobalt-60 teletherapy units, linear accelerators, and betatrons. Using x-rays, the simulator is intended to localize tumors, confirm entry and exit ports, and verify the position and size of the therapeutic irradiation field to be used. Through the visualization achieved by therapy simulators, it is possible to more effectively minimize the therapeutic irradiation of normal tissues surrounding the area to be treated.

Because of the unique features of therapy simulators and the need to visualize the boundaries of the planned treatment area, and pursuant to section 358(a)(1)(c) of the act, it is necessary to amend the performance standard for diagnostic x-ray equipment to establish specific provisions to permit the flexibility needed in therapy simulators without significantly increasing the exposure to either the patient or the operators. The proposed amendments would also eliminate the need for processing requests for variances submitted by manufacturers of such systems as provided by § 1010.4(c) (21 CFR 1010.4(c)).

In accordance with section 358(f) of the act, the proposed amendments have been reviewed by the Technical Electronic Production Radiation Safety Standards Committee, a statutory advisory committee to the Secretary, Department of Health, Education, and Welfare, which must be consulted prior to the establishment or amendment of electronic product standards established under the act. In addition, manufacturers of diagnostic x-ray systems were invited to submit written comments regarding the proposal. Based on these discussions and comments and the information submitted by manufacturers in their variance applications, amendments regarding the applicability of the standard to radiation therapy simulation systems are proposed as follows:

1. A new § 1020.30(b)(50) (21 CFR 1020.30(b)(50)) would be added to define a "radiation therapy simulation system" was a fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

2. Radiation therapy simulation systems would be exempt from the requirements of §§ 1020.31(g) and 1020.32(b)(2) regarding beam limitation and alignment on fluoroscopic x-ray systems equipped with spot-film devices and image intensifiers.

At present, § 1020.31(g) requires, in part, that x-ray systems equipped with spot-film devices must employ automatic means between the x-ray source and patient to adjust the x-ray field size in the plane of the film to the size of the portion of the film which has been selected on the spot-film selector. Also, the center of the x-ray field in the plane of the film must be aligned with the center of the selected portion of the film to within 2 percent of the source-image distance (SID). Section 1020.32 (b)(2) requires that the misalignment of the edges of the x-ray field with the edges of the visible area of the image intensifier shall not exceed 3 percent of the SID.

A therapy simulator must have the means to hold the x-ray tube position constant and move the fluoroscopic imaging assembly around the x-ray field, which simulates the therapy field, in order for the therapist to examine and appropriately confine the area to be treated. Visualization is also necessary to locate shielding blocks and other accessories since, in some cases, the irradiated treatment area is as large as the entire body trunk. Compliance with the requirements of §§ 1020.31(g) and 1020.32(b)(2) would prohibit the accurate simulation of large treatment fields unless the x-ray beam were directed to follow the fluoroscopic imaging assembly. The total radiation dose to the patient from the use of the therapy simulator usually is only a small fraction (less than 0.5 percent) of the dose to be delivered during the planned treatment program. It should be noted that the reduction in exposure, which might be achieved through compliance with the provisions of the standard, represents a reduction in the simulator dose. Although not impossible to accomplish, the increased complexity and cost of the equipment through compliance with these provisions cannot be justified due to the insignificant reduction in total exposure achieved.

3. Therapy simulation systems would be exempt from the requirements of § 1020.32(a)(1) regarding primary protective barriers, if they are intended only for remote control operation and the manufacturer sets forth instructions to assemblers with respect to control location and precautions to users concerning the importance of remote control operation in addition to the information required in § 1020.30 (g), and (h)(1)(i).

At present, § 1020.32(a)(1) requires that the entire cross section of the useful fluoroscopic x-ray beam must be intercepted by the primary protective barrier of the fluoroscopic imaging assembly at any SID. In the simulation of large therapeutic irradiation fields, this requirement would necessitate a protective barrier of such size as to interfere with the movement of the treatment table and supporting structure. Since provisions of § 1020.32(a)(1) regarding protective barriers are intended to assure protection of the therapist and his assistants, the proposed amendment would provide an alternate means of protection by requiring that the location of the x-ray controls be in a remote area.

4. Section 1020.32(g) would be amended to permit alternative performance requirements for the fluoroscopic timer of therapy simulation systems. Instead of the present requirements of paragraph (g) therapy simulation systems may provide a means to measure the total cumulative exposure time and be capable of resetting between x-ray examinations.

At present, § 1020.32(g) requires that means be provided to preset the cumulative on-time of the fluoroscopic tube, and that the maximum cumulative time of the timing device not exceed 5 minutes without resetting. An audible signal indicating completion of the preset time must be provided, and this signal must continue while x-rays are produced until the timing device is reset.

Unlike most diagnostic fluoroscopic examinations, therapy simulation frequently requires 10 minutes or more of exposure time in order to assure proper therapeutic planning and field definition. Maintenance of the current 5 minute limit could cause a loss of information regarding the cumulative exposure time during therapy simulation because of the necessary resetting of the timing device if 5 minutes were exceeded.

It is proposed that these amendments be made applicable to products manufactured on or after a date which is 10 days following the date of FEDERAL REGISTER publication of the final order to permit the uninterrupted availability of therapy simulation systems to the health-care community.

Pertinent information and data supporting this proposal are on file in the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, pursuant to provisions of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 1020 be amended as follows:

1. In § 1020.30 by adding a new paragraph (b)(50) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

* * * * *

(b) * * *

(50) "Radiation therapy simulation system" means a fluoroscopic x-ray sys-

tem intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

* * * * *

2. In § 1020.31 by revising the introductory text of paragraph (g) to read as follows:

§ 1020.31 Radiographic equipment.

* * * * *

(g) *Field limitation and alignment for spot-film devices.* The following requirements shall apply to spot-film devices, except when the spot-film device is provided for use with a radiation therapy simulation system:

* * * * *

3. In § 1020.32 by revising paragraphs (a)(1), (b)(2), and (g) to read as follows:

§ 1020.32 Fluoroscopic equipment.

* * * * *

(a) *Primary protective barrier*—(1) *Limitation of useful beam.* The entire cross section of the useful beam shall be intercepted by the primary protective barrier of the fluoroscopic image assembly at any SID. The fluoroscopic tube shall not produce x-rays unless the barrier is in position to intercept the entire useful beam. The exposure rate due to transmission through the barrier with the attenuation block in the useful beam combined with radiation from the image intensifier, if provided, shall not exceed 2 milliroentgens per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate. Radiation therapy simulation systems shall be exempt from this requirement provided the systems are intended only for remote control operation and the manufacturer sets forth instructions for assemblers with respect to control location as part of the information required in § 1020.30(g). Additionally, the manufacturer shall provide to users, pursuant to § 1020.30(h)(1)(i), precautions concerning the importance of remote control operation.

* * * * *

(b) * * *

(2) *Image-intensified fluoroscopy.* For image-intensified fluoroscopic equipment other than radiation therapy simulation systems, the total misalignment of the edges of the x-ray field with the respective edges of the visible area of the image receptor along any dimension of the visually defined field in the plane of the image receptor shall not exceed 3 percent of the SID. The sum, without regard to sign, of the misalignment along any two orthogonal dimensions intersecting at the center of the visible area of the image receptor shall not exceed 4 percent of the SID. For rectangular x-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor. Means shall be provided to permit further limitation of the field. The minimum field size, at the greatest SID, shall be equal to or less than 5x5 centimeters.

* * * * *

(g) *Fluoroscopic timer.* Means shall be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device shall not exceed 5 minutes without resetting. A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while x-rays are produced until the timing device is reset. As an alternative to the above requirements of this paragraph, radiation therapy simulation systems may be provided with a means to indicate the total cumulative exposure time during which x-rays were produced, and be capable of resetting between x-ray examinations.

Interested persons may, on or before August 21, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: July 16, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-16672 Filed 7-19-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[226-6]

PENNSYLVANIA

Air Quality Compliance Schedules

Section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51, require each State to submit a plan which provides for the attainment and maintenance of the national ambient air quality standards throughout the State. Each such plan is to contain legally enforceable compliance schedules setting forth the dates by which all stationary and mobile sources must be in compliance with any applicable requirement of the plan.

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of Pennsylvania's State Implementation Plan.

Pursuant to 40 CFR 51.6, the Commonwealth of Pennsylvania has submitted for the Environmental Protection Agency's approval revisions to the compliance schedule portion of its plan. This publication proposes that certain of these revisions be approved. Others are still undergoing review and cannot be proposed for approval at this time. Each proposed revision established a date by which an individual air pollution source must attain compliance with an emission limitation of the State Implementation Plan. This date is indicated in the table below under the heading "Final compliance date." In most cases, the schedules include incremental steps toward compliance with interim dates for achieving those steps. While the table below does not list these interim dates, the actual compliance schedules do. All of the compliance schedules listed here are available for public inspection at the following locations:

Environmental Protection Agency
Region III
Curtis Building
Sixth and Walnut Streets
Philadelphia, Pennsylvania 19106

Bureau of Air Quality and Noise Control
Fulton National Building
208 North Third Street
Harrisburg, Pennsylvania 17120

Freedom of Information Center
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Each compliance schedule has been adopted by the Pennsylvania Bureau of Air Quality and Noise Control and submitted to EPA after notice and public hearing in accordance with the procedural requirements of 40 CFR Part 51.

This notice is issued to advise the public that comments may be submitted on whether the proposed revisions to the Pennsylvania State Implementation Plan should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received on or before August 21, 1974 will be considered. Public comments received on the proposed revisions wil be available for public inspection at the Regional Office in Philadelphia, Pennsylvania, and the Freedom of Information Center in Washington, D.C. The Administrator's decision to approve or disapprove the proposed revisions is based upon the requirements of section 110(a)(2) (A-H) of the Clean Air Act and Environmental Protection Agency regulations published in 40 CFR Part 51. Comments should be directed to Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attention: Benjamin Stonelake.

(42 U.S.C. 1857c-5)

Dated: July 12, 1974.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart NN—Pennsylvania

In § 52.2036(a) the table is amended by adding the following:

§ 52.2036 Compliance schedules.

(a) * * *

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Committee on Masonic Homes, State Order No. 73-823-V.	Elizabethtown	123.11, 123.41	Nov. 9, 1973	Immediately	Oct. 31, 1974
United Refining Co., State Order No. 73-803-V.	Warren	123.13	Oct. 17, 1973	do	Mar. 31, 1975
Witco Chemical Corp., State Order No. 73-783-V.	Petrolia	123.11, 123.22	Oct. 12, 1973	do	Mar. 19, 1975
Kerr Glass Manufacturing Corp., State Order No. 73-779-V as amended Nov. 8, 1973.	Lancaster	123.31	Oct. 1, 1973	do	Nov. 15, 1974
Eldorado Stone Quarry, State Order No. 73-707-V as amended Mar. 28, 1974.	Altoona	123.2	Aug. 14, 1973	do	June 1, 1974
Mercer Lime & Stone Co., State Order No.; 73-644 as amended Nov. 9, 1973.	Branchton	123.13	June 1, 1973	do	Dec. 31, 1974
Armco Steel Corp., State Order No. 73-859-V.	Butler Township	123.1	Nov. 30, 1973	do	Jan. 1, 1975
Stackpole Carbon Co., State Order No. 73-853-V.	Benzinger Township, Kane, and St. Mary's.	Chapter 123	do	do	June 10, 1975
Glass Containers Corp., State Order No. 73-849-V.	Knox	123.13	do	do	June 30, 1975
Owens-Illinois, Inc., State Order No.:					
73-856-V	Clarion	123.12	Dec. 3, 1973	do	July 1, 1975
73-855-V	do	123.13, 123.41	Nov. 30, 1973	do	Jan. 1, 1975
73-854-V	do	123.13, 123.41	Nov. 30, 1973	do	July 1, 1975
Continental Can Co., Inc., State Order No. 73-848-V.	Oil City	123.13, 123.31, 123.41.	Nov. 30, 1973	do	June 30, 1975
Stauffer Chemical Co., State Order No. 73-844-V.	Morrisville	123.13	Dec. 3, 1973	do	May 15, 1975
B. F. Goodrich Tire Co., State Order No. 74-941-V.	Upper Providence Township.	123.31	Feb. 13, 1974	do	May 31, 1975
Heinz U.S.A., Division of H. J. Heinz Co., State Order No. 74-931-V.	Chambersburg	123.11	do	do	Nov. 1, 1974
Sun Oil Co., State Order No. 74-920-V, as amended Mar. 15, 1974.	Marcus Hook	123.31	Mar. 8, 1974	do	May 31, 1975
Sun Oil Co., State Order No.:					
74-922-V	do	123.41	do	do	Sept. 10, 1974
74-919-V	do	129.4	Feb. 23, 1974	do	May 31, 1975
United States Steel Corp., State Order No.:					
74-935-V	Falls Township	123.13, 123.41	Mar. 29, 1974	do	Do.
74-936-V	Fairness Hills	129.2	do	do	Oct. 31, 1974
North American Refractories Co., State Order No. 73-775-V-A.	Womelsdorf	123.31	Apr. 16, 1974	do	May 1, 1975
Lukens Steel Co., State Order No. 73-860-V.	Coatesville	123.1, 123.2, 123.13, 123.41.	Nov. 30, 1973	do	Dec. 15, 1974
Pennsylvania Power & Light Co., State Order No.:					
74-953-V	Washingtonville	123.22	Mar. 6, 1974	do	July 1, 1975
73-753-V	East Manchester Township.	123.11	Sept. 13, 1973	do	Nov. 1, 1974
Grannas Brothers Stone & Asphalt Co., State Order No. 73-755-V.	Frankstown Township.	123.1	Sept. 11, 1973	do	July 15, 1974
Sun Oil Co., State Order No. 74-915-V as amended Mar. 8, 1974.	Marcus Hook	123.21	Feb. 22, 1974	do	May 31, 1975
Braeburn Alloy Steel Division, Continental Copper & Steel Industries, Inc., State Order No. 73-853-V.	Braeburn	123.13	Dec. 12, 1973	do	Dec. 31, 1974
G. & W. H. Corson, Inc., State Order No. 73-857-V.	Whitemarsh Township.	123.13, 123.41.	Dec. 11, 1973	do	May 15, 1975

[FR Doc.74-16478 Filed 7-19-74;8:45 am]

[40 CFR Part 87]

[187-6]

SUPERSONIC AIRCRAFT

Control of Air Pollution

Section 231 of the Clean Air Act, as amended, directs the Administrator of the Environmental Protection Agency to "establish standards applicable to emission of any air pollutant from any class or classes of aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare." Regulations for enforcing compliance with these standards are required to be issued by the Secretary of Transportation in accordance with section 232 of the Act.

Final standards were promulgated on July 17, 1973 (38 FR 19088) which specified limits on emissions from classes of new and in-use aircraft engines. In addition, the preamble to those regulations stated: "A separate class has been established for engines which power supersonic aircraft. Exhaust emission standards for this class will be based on the best available combustor design technology expected in 1979 and later, but with due consideration for the inherently higher emission characteristics of supersonic aircraft engines under landing/takeoff cycle conditions. These standards will represent the same level of emissions reduction from current supersonic aircraft, through application of the same types of combustor design technology, as will be required of subsonic aircraft, though the absolute hydrocarbon and carbon monoxide levels will be several times higher * * *."

Set forth below are proposed emission standards for newly manufactured engines used in supersonic aircraft beginning January 1, 1979, and for newly certified engines used in supersonic aircraft beginning January 1, 1981.

EPA projects that the technology capable of reducing emissions from supersonic (SST) power plants will be essentially the same as that developed for subsonic power plants. Therefore, the research and development programs which are directed primarily at subsonic aircraft, being financed by the NASA, Air Force, and industry, are expected to form at least a partial basis for achieving the standards proposed herein for applicability to SST aircraft. However, since the technology necessary to meet these standards is still in an early development stage, a range of proposed levels for each pollutant is shown for 1979, which reflect differences in estimates of technical feasibility among the government engineers who have reviewed advance drafts of these regulations. The level of the standards to be ultimately adopted may be more or less stringent than the range of values proposed, depending on data presented by interested parties during the public comment period and at a public hearing on these proposals.

For 1981, The proposed levels for newly certified engines assume that such engines will be required to achieve noise levels which will dictate engine cycles for which the indicated emissions are entirely feasible. Specifically, afterburning is not expected to be used for thrust augmentation during takeoff for second generation SST powerplants.

Upon final promulgation of standards for SST aircraft, EPA intends to monitor closely the development of this technology and to reassess by January 1, 1976, the standards promulgated for supersonic aircraft. This reassessment may result in additional rulemaking action to adjust the standards up or down in accordance with the best technology then expected to be available. Comments are invited on the exact emissions levels achievable through application of best technology within this time period.

It is recognized that some SST aircraft engines may utilize afterburners during the takeoff mode of operation. Comments are specifically invited on possible modifications to the emission measurement procedures of Subparts G and H for afterburning engines. These subparts are intended to be applicable to nonafterburning modes of SST engine operation only and deviations from these procedures during the afterburning mode of engine operation are expected.

The benefits of these standards will be to contribute to the maintenance of air quality in and around the major air terminals which are most heavily used by international flights. Currently, the JFK airport in New York is the most heavily

international in its operations among major United States air terminals. The projected operations at JFK of SST aircraft per day in 1990 could be approximately 120 landing/take-off cycles per day, based on a total SST population of 375 (this can be compared to approximately 800 total landing/take-off cycles per day for all aircraft).

The following tabulations compare the estimated emissions reductions attributable to the proposed standards applicable to SST aircraft with those promulgated on July 17, 1973, applicable to subsonic aircraft:

Emissions impact of supersonic transport aircraft at John F. Kennedy Airport in 1990

[Tons per year]

	HC	CO	NOx
Subsonic aircraft emissions	2,500	10,000	6,200
Supersonic aircraft emissions	4,000	16,700	2,200
Total uncontrolled aircraft emissions	6,500	26,700	8,400
Reduction in subsonic aircraft emissions due to standards for subsonic aircraft	2,000	6,000	3,400
Percent	80	60	55
Reduction in supersonic aircraft emissions due to standards for supersonic aircraft	2,750–3,200	10,800–11,600	0–450
Percent	70–80	64–69	0–21
Reduction in total emissions due to aircraft emission standards for both subsonic and supersonic aircraft	4,750–5,200	16,800–17,600	3,400–3,850
Percent	73–80	63–66	41–46
Reduction in total emissions due to aircraft emission standards for subsonic aircraft only	2,000	6,000	3,400
Percent	31	23	41

NOTE.—Estimate: 375 SST aircraft in world fleet.

Much of the technology development applicable for meeting these proposed standards is already covered in the costs estimated for meeting the standards applicable to subsonic aircraft promulgated on July 17, 1973.

It is estimated that the total cost of achieving these standards for supersonic aircraft and the standards promulgated on July 17, 1973, for subsonic aircraft will be approximately $147 million. Of this, the total cost directly related to achieving standards within the proposed range for SST aircraft is estimated to be about $18 million. Of this, $8 million consists of developmental costs, while the remaining $10 million represents manufacturing costs based on a total worldwide SST fleet of 375 aircraft, of which 275 would be manufactured after 1979. These added engine costs amount to only 0.1 to 0.2 percent of an estimated $40 million cost to the airlines of a complete SST aircraft.

Section 231 of the Act also provides that the Administrator shall hold public hearings with respect to the proposed aircraft emission standards. A notice of time, date, and place for a hearing will be published in the FEDERAL REGISTER within the near future. This hearing is intended to provide an opportunity for interested persons to state their views or arguments, or provide information relative to the proposed standards. Comments relating to the technological feasibility of achieving specific emissions levels for engines manufactured after January 1, 1979, are especially desired. Any person desiring to make a statement at the hearing or to submit material for the record of the hearing should file a notice of such intention, and, if practicable, five copies of his proposed statement (and other relevant material) with the Environmental Protection Agency, Office of Mobile Source Air Pollution Control, Washington, D.C. 20460, not later than 5 days before the date of the hearing.

In addition, interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control (AW–455), Washington, D.C. 20460. To be effectively considered, all relevant material should be received on or before October 21, 1974.

Comments submitted will be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, Fourth and M Streets SW., Washington, D.C. 20460.

This notice of proposed rule making is issued under the authority of Section 231 of the Clean Air Act, as amended (42 U.S.C. 1857f–9).

Dated: July 9, 1974.

JOHN QUARLES,
Acting Administrator.

Subparts C and G of Part 87 of Title 40 of the Code of Federal Regulations are proposed to be amended as follows:

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

In § 87.21, paragraph (d) (4) and paragraph (e) are revised as follows:

§ 87.21 Standards for exhaust emissions.

* * * * *

(d) Exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after January 1, 1979, shall not exceed:

* * * * *

(4) Class T-5:

(i) Hydrocarbons	A level to be established in final rulemaking, and proposed to be in the range of 3.0-4.7 pounds/1,000 pound-thrust hours/cycle
(ii) Carbon monoxide	A level to be established in final rulemaking, and proposed to be in the range of 20.0-24.7 pounds/1,000 pound-thrust hours/cycle
(iii) Oxides of nitrogen	A level to be established in final rulemaking, and proposed to be in the range of 0.0-0.0 pounds/1,000 pound-thrust hours/cycle
(iv) Smoke	Smoke number from Figure 1.

(e) Exhaust emissions from each newly certified aircraft gas turbine engine of the classes specified below manufactured on or after January 1, 1981, shall not exceed:

(1) Class T2, T3, or T4:

(i) Hydrocarbons	0.4 pound 1,000 pound-thrust hours cycle
(ii) Carbon monoxide	3 pounds/1,000 pound-thrust hours cycle
(iii) Oxides of nitrogen	3 pounds/1,000 pound-thrust hours cycle
(iv) Smoke	Smoke number from Figure 1.

(2) Class T5:

(i) Hydrocarbons	0.8 pound 1,000 pound-thrust hours cycle
(ii) Carbon Monoxide	4.3 pounds/1,000-thrust hours cycle
(iii) Oxides of nitrogen	3 pounds/1,000 pound-thrust hours cycle
(iv) Smoke	Smoke number from Figure 1.

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

1. In § 87.62, paragraph (a) is revised as follows:

§ 87.62 Test Procedure (propulsion engines).

(a) (1) The engine shall be tested in each of the following engine operating modes which simulate aircraft operation to determine its mass emission rates and work output.

Actual power setting, that when corrected to standard day conditions, corresponds to the following percentage of rated power:

Mode	Class T1 or P2	Class T2, T3, or T4	Class T5
Taxi/idle (out)	(1)	(1)	(1)
Takeoff	100	100	100
Climbout	90	85	65
Descent	NA	NA	15
Approach	30	30	34
Taxi/idle (in)	(1)	(1)	(1)

[1] See subparagraph (2) of this paragraph.

(2) The taxi/idle operating modes shall be carried out at a power setting in accordance with applicable Federal Aviation Administration regulations, at the manufacturer's recommended power setting for idle.

* * * * *

2. In § 87.70, paragraph (d) is revised as follows:

§ 87.70 Calculations.

* * * * *

(d) The time in mode (TIM) shall be as specified below:

Times in mode (minutes)	Class T1 or P2	Class T2, T3, or T4	Class T5
(1) Taxi/idle (out)	19.0	19.0	19.0
(2) Takeoff	.5	.7	1.2
(3) Climbout	2.5	2.2	2.0
(4) Descent	N/A	N/A	2.3
(5) Approach	4.5	4.0	1.2
(6) Taxi/idle (in)	7.0	7.0	7.0

[FR Doc.74-16380 Filed 7-19-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 74-6]

WASHINGTON-MAIN MEDICAL PHARMACY

Notice of Hearing

Notice is hereby given that on May 16, 1974, the Drug Enforcement Administration, Department of Justice, issued to Fleet Pharmacy, Inc., d/b/a Washington-Main Medical Pharmacy, Los Angeles, California, an Order to Show Cause as to why the Drug Enforcement Administration registration No. AF0318659 issued to the Respondent pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since said Order was received by the Respondent and pursuant to a request by counsel for the Respondent, a prehearing conference was held June 14, 1974.

In accordance with an Order of the presiding officer dated July 3, 1974, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on August 6, 1974, in the U.S. Court of Claims hearing room No. 8549, 300 North Los Angeles Street, Los Angeles, California 90012.

Dated: July 17, 1974.

ANDREW C. TARTAGLINO,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.74-16678 Filed 7-19-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[OCS Order 12]

PUBLIC INSPECTION OF RECORDS

Gulf of Mexico

Notice is hereby given that pursuant to 30 CFR 250.11 and in accordance with 30 CFR 250.97 and 43 CFR 2.2 of the Code of Federal Regulations, the Chief, Conservation Division, Geological Survey proposes to revise OCS Order No. 12, "Public Inspection of Records," for the Gulf of Mexico as set forth below.

The purpose of the revision is to update and supersede OCS Order No. 12, dated August 13, 1971, by announcing the availability of information contained on certain forms received in accordance with OCS Order No. 11 issued effective May 1, 1974.

Interested persons may submit written comments, suggestions, and objections concerning the proposed Order to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092, on or before September 2, 1974.

PROPOSED CHANGES IN OCS ORDER NO. 12 DATED AUGUST 12, 1971, GULF OF MEXICO

Item 1.B.(3): Second and third sentences rewritten as follows:

Within 90 days prior to the end of the 5-year period, the lessee or operator shall file a Form 9-330 containing all information requested on the form, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the compelted Form 9-330.

Items 1.E, F, and G have been added and 1.H has been revised from former 1.E as follows:

E. *Form 9-1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

F. *Form 9-1870—Semi-Annual Gas Well Test Report.* All information contained on this form shall be available.

G. *Multi-point Back Pressure Test Report.* All information contained on the form used to report the results of required multi-point back pressure test of gas wells shall be available.

H. *Sales of Lease Production.* Information contained on monthly Geological Survey computer printout showing sales volumes, value, and royalty of production of oil, condensate, gas and liquid products, by lease, shall be made available.

Items 2 and 3 have been revised as follows:

2. *Filing of reports.* All reports on Form 9-152, 9-330, 9-331, 9-331C, 9-1869, 9-1870, and the forms used to report the results of multi-point back pressure tests, shall be filed in accordance with the following: All reports submitted on these forms after the effective date of this Order shall include a copy with the words "Public Information" shown on the lower right-hand corner. All items on the form not marked "Public Information" shall be completed in full; and such forms, and all attachments thereto, shall not be available for public inspection. The copy marked "Public Information" shall be completed in full, except that the items described in 1 (A), (B), (C), and (D) above, and the attachments relating to such items, may be excluded. The words "Public Information" shall be shown on the lower right-hand corner of this set. This copy of the form shall be made available for public inspection.

3. *Availability of Records Filed Prior to December 1, 1970.* Information filed prior to December 1, 1970, on Forms 9-152, 9-330, 9-331, and 9-331C is not in a form which can be readily made available for public inspection. Requests for information on these forms shall be submitted to the Supervisor in writing and shall be made available in accordance with 43 CFR Part 2.

W. A. RADLINSKI,
Acting Director.

[FR Doc.74-16681 Filed 7-19-74;8:45 am]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA CITIZENS' ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Citizens' Advisory Commission will be held at 9:30 a.m. on August 17, 1974, at the Sixth US Army Conference Room, Building 35, Mesa Street, Presido of San Francisco, California.

The purpose of the Golden Gate National Recreation Area Citizens' Advisory Commission is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the National Park system in Marin and San Francisco counties.

Members of the Advisory Commission are as follows:

Mr. Frank Boerger, Chairman
Mr. Ernest C. Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Mr. Joseph Caverly
Mr. Lambert Lee Choy
Mrs. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Joseph Mendoza
Mrs. Amy Meyer
Mr. John M. Mitchell
Mr. Merritt Robinson
Mr. William Thomas
Mr. Gene Washington
Dr. Edgar Wayburn

The major item on the agenda is a briefing on the Master Plan for the Presidio of San Francisco by the US Army.

This meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact William J. Whalen, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by September 6, 1974 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco.

Dated: July 9, 1974.

JACK WHEAT,
Acting General Superintendent.

[FR Doc.74-16680 Filed 7-19-74;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

PORCELAIN ENAMELED (GLASS LINES) TANKS

Withdrawal of Commercial Standard

In accordance with § 10.12 of the Department's "Procedure for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 115-60, "Porcelain Enameled (Glass Lined) Tanks for Domestic Hot Water Service."

It has been determined that this standard has become technically inadequate, and in view of the existence of an up-to-date General Services Administration document for the product covered, revision of the Commercial Standard would serve no useful purpose.

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of May 21, 1974 (39 FR 17878), to withdraw this standard.

The effective date for the withdrawal of this standard will be September 20, 1974. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: July 17, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc. 74-16695 Filed 7-19-74; 8:45 am]

VITREOUS CHINA PLUMBING FIXTURES

Withdrawal of Commercial Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 20-63, "Vitreous China Plumbing Fixtures."

It has been determined that this standard has become technically inadequate, and revision would serve no useful purpose.

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of March 21, 1974 (39 FR 10638), to withdraw this standard.

The effective date for the withdrawal of this standard will be September 20, 1974. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: July 17, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-16694 Filed 7-19-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 6566; Docket No. FDC-D-578; NDA 12-188]

WINTHROP LABORATORIES

Chlormezanone With Aspirin; Withdrawal of Approval of New Drug Application

A notice was published in the FEDERAL REGISTER of January 30, 1973 (38 FR 2779), extending to Winthrop Laboratories, Division of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016, and to any interested person, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of NDA 12-188 for Tranco-Gesic Tablets and Trancoprin Tablets, both containing chlormezanone with aspirin. The basis of the proposed action was the lack of substantial evidence that the drugs are effective for their labeled indications.

Neither the holder of the application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of an opportunity for hearing.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, MD 20852.

The Director of the Bureau of Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and under authority delegated to him (21 CFR 2.121), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 12-188 and all amendments and supplements applying thereto is withdrawn effective on August 1, 1974.

Shipment in interstate commerce of the above listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: July 9, 1974.

CARL M. LEVENTHAL,
Acting Director,
Bureau of Drugs.

[FR Doc.74-16669 Filed 7-19-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-223 FDAA-432-DR]

ILLINOIS

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Illinois, dated June 10, 1974, amended on June 13, 1974, June 18, 1974, June 25, 1974, and July 8, 1974, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 10, 1974:

The county of:
Marshall

Dated: July 15, 1974.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-16679 Filed 7-19-74;8:45 am]

Federal Disaster Assistance Administration

[Docket No. NFD-224; FDAA-440-DR]

MINNESOTA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Minnesota, dated June 10, 1974 and amended June 20, 1974, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 10, 1974:

The counties of:

Becker	Mahnomen
Koochiching	Pennington

Dated: July 16, 1974.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-16700 Filed 7-19-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

TRACK SAFETY STANDARDS

State Participation Program

This is to give notice pursuant to § 212.17 of the State Participation regulations published by the Federal Rail-

roads Administration (FRA) as Part 212 of Title 49 of the Code of Federal Regulations (38 FR 34782) that the States of Oregon, Washington and Iowa will participate in carrying out the investigative and surveillance activities prescribed by the Federal Railroad Administrator (the Administrator) as necessary for the enforcement of the FRA Track Safety Standards (49 CFR Part 213) during fiscal year 1975 (July 1, 1974 to June 30, 1975).

The Public Utility Commissioner of Oregon (the Commissioner) has been certified for fiscal year 1975. Investigative and surveillance activities conducted by the Public Utility Commissioner commenced on July 1, 1974. The Commissioner now employs one Track Inspector who will conduct the prescribed track investigative and surveillance activities to be carried out under this certification. Pursuant to § 212.53(c) (49 CFR 212.53 (c)) the Commissioner will comply within three years of this initial certification with the requirement for two (2) track inspectors for the State of Oregon.

The Washington Utilities and Transportation Commission (the Commission) has been certified for fiscal year 1975. Investigative and surveillance activities conducted by the Commission commenced on July 1, 1974. Activities to be conducted under this certification shall be performed in accordance with a waiver of the requirement of "progressively responsible" track work (49 CFR 212.55(a)(1)) which was granted to the Commission. The Commission now employs one Track Inspector who, although lacking "progressively responsible" track experience, has demonstrated the comprehensive knowledge of track structures contemplated by § 212.55 of the State Participation regulations (49 CFR 212.55) and is qualified to successfully carry out the investigative and surveillance activities to be conducted by the Commission. In the best interests of railroad safety the waiver will require the Commission's Track Inspector to successfully complete all training prescribed by the FRA. Pursuant to § 212.53(c) (49 CFR 212.53(c)) the Commission will comply within three years of this initial certification with the requirement for two (2) track inspectors for the State of Washington.

The Iowa Commerce Commission (the Commission) has also been certified for fiscal year 1975. Investigative and surveillance activities conducted by the Commission commenced July 1, 1974. The Commission now employs one Track Inspector who will conduct the prescribed track investigative and surveillance activities to be carried out under this certification. Pursuant to § 212.53(c) (49 CFR 212.53(c)) the Commission will comply within three years of this initial certification with the requirement for three (3) track inspectors for the State of Iowa.

This notice is published under the authority of sections 202 and 206 of the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et seq.), § 1.49(n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)), and § 212.17 of the regulations of the Federal Railroad Administration (49 CFR 212.17).

Issued in Washington, D.C., on July 16, 1974.

JOHN W. INGRAM,
Administrator.

[FR Doc.74-16652 Filed 7-19-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Subcommittee Meeting

JULY 16, 1974.

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards' Subcommittee on Gas Cooled Fast Breeder Reactors will hold a meeting on August 6, 1974 in Room 1046 at 1717 H Street, N.W., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the concept proposed for a demonstration gas cooled fast breeder reactor.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Tuesday, August 6, 1974, 9 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the Regulatory Staff and the General Atomic Company, and will hold discussions with these groups pertinent to its review of matters related to the conceptual design for a gas cooled fast breeder reactor.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at approximately 8:30 a.m. and at the end of the day to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold one or more closed sessions with representative of the Regulatory Staff and General Atomic for the purpose of discussing privileged information relating to the matters under review, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that closed sessions may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than July 30, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on August 6.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on August 2, 1974, to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess.

The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street N.W., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 8, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street N.E., Washington, D.C. 20002 (telephone 202-547-6222), upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, after October 7, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee
Management Officer.

[FR Doc.74-16617 Filed 7-19-74; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Subcommittee Meeting

JULY 16, 1974.

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards' Subcommittee on the Summit Power Station will hold a meeting on August 7, 1974, in Room 1046 at 1717 H Street, N.W., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application by the Delmarva Power and Light Company for a permit to construct the Summit Power Station, Units 1 and 2.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, August 7, 1974, 9 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the Regulatory Staff and the Delmarva Power and Light Company, and will hold discussions with these groups pertinent to its review of matters related to the application for a construction permit for the Summit Power Station, Units 1 and 2.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at approximately 8:30 a.m. and at the end of the day to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold one or more closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information relating to the matters under review, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that closed sessions may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than July 31, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and at the Newark Free Library, Elkton and Delaware Roads, Newark, Delaware 19711.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 20 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3.30 p.m. on August 7, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on August 5, 1974, to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, N.W., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 9, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and within approximately nine days at the Newark Free Library, Elkton and Delaware Roads, Newark, Delaware 19711. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, N.E., Washington, D.C. 20002 (telephone 202-547-6222), upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, after October 7, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee
Management Officer.

[FR Doc.74-16618 Filed 7-19-74; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON ECCS

Notice of Meeting

JULY 17, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactors Safeguards' Subcommittee on ECCS will hold a meeting on August 6, 1974 in Room 1062, 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to discuss the development of models formulated to meet current ECCS Criteria.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Tuesday, August 6, 1974—9 a.m.-3 p.m. Discussion with the AEC Regulatory Staff on the development of models formulated to meet current ECCS criteria.

In connection with the above agenda item, the Subcommittee will hold executive sessions before and after the meeting to discuss its preliminary views and to exchange opinions and formulate recommendations to the ACRS. In addition, following the public portion of the meeting, the Subcommittee may hold closed sessions with the Regulatory Staff to discuss privileged information relating to the agenda item.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive session at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held to discuss certain documents which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect such privileged information and the free interchange of internal views and to avoid undue interference with Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than July 29, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statements and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the details of the agenda and schedule, whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on August 5, 1974 to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C. 20545 after October 8, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-16715 Filed 7-19-74;8:45 am]

[Docket No. 50-332 OL]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL.

Notice and Order Scheduling Prehearing Conference on Issuance of Facility Operating License

In the matter of Allied-General Nuclear Services, et al. (Barnwell Nuclear Fuel Plant), Docket No. 50-332 OL.

Take notice, that in accordance with the Atomic Energy Commission's "Notice of Hearing on Issuance of Facility Operating License" published on July 11, 1974, in the FEDERAL REGISTER (39 FR 25526) a prehearing conference will be held in the above-entitled proceeding on Tuesday, August 20, 1974, at 10 a.m., local time, in the Lower Level Hearing Room, U.S. District Court, Laurel and Assembly Streets, Columbia, South Carolina 20202.

The prehearing conference will deal with the following matters:

(1) The effect of consolidating the operating license hearing with the hearing on environmental issues related to the previously issued construction permit.

(2) The role of the State of South Carolina in the consolidating proceedings.

(3) Any other matters pertinent to the proceeding.

Members of the public are welcome to attend, however, no limited appearance statements will be accepted at this prehearing conference. Statements by members of the public making limited appearances will be received at the commencement of the consolidated evidentiary hearing which will be held on Tuesday, August 27, 1974, at the Barnwell County Courthouse, Barnwell, South Carolina.

Issued at Bethesda, Maryland, this 16th day of July 1974.

It is so ordered.

For the Atomic Safety and Licensing Board.

RICHARD F. COLE,
Member.

[FR Doc.74-16683 Filed 7-19-74;8:45 am]

[Dockets Nos. 50-416, 50-417]

MISSISSIPPI POWER & LIGHT CO.

Notice and Order for Evidentiary Hearing

In the matter of Mississippi Power and Light Company (Grand Gulf Nuclear Station, Units 1 and 2).

The Atomic Energy Commission (the Commission) by its "Notice of Hearing on Application for Construction Permits" dated December 1, 1972, ordered a

hearing to be held on the application of the Mississippi Power and Light Company for construction permits for two boiling water nuclear reactors designated as the Grand Gulf Nuclear Station Units 1 and 2, each of which is designed for initial operation at approximately 3833 thermal megawatts with a net electrical output of approximately 1313 megawatts. The proposed facilities are to be located at the Applicant's site on the east bank of the Mississippi and 37 miles north of Natchez, Mississippi in Claiborne County, Mississippi. One session of this hearing was held on environmental issues on February 19–21, 1974, in Port Gibson, Mississippi.

The purpose of this notice is to set the date and place for the evidentiary hearing on health and safety issues involved in this proceeding. This hearing will be conducted by the Atomic Safety and Licensing Board (the Board) appointed by the Commission on January 30, 1973. The Board consists of Dr. Marvin M. Mann and Dr. William E. Martin as technically qualified members and Daniel M. Head as Chairman.

Please take notice, and *it is hereby ordered*, That the evidentiary hearing on health and safety issues specified in the Commission's Notice of Hearing is scheduled to begin at 10 a.m., local time, on Tuesday, August 6, 1974, in the Courtroom of the Circuit Court of Claiborne County, County Courthouse, Market Street, Port Gibson, Mississippi 39150. The hearing shall run continuously until all evidence has been received on the health and safety issues or until continued by further order of the Board.

Members of the public are invited to attend this hearing and may request to make limited appearances pursuant to § 2.715(a) of the Commission's rules of practice. Oral or written statements to be presented by limited appearances will be received prior to the start of the taking of evidence at the hearing.

Dated this 16th day of July 1974 at Bethesda, Maryland.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-16621 Filed 7-19-74;8:45 am]

[Dockets Nos. 50-327, 50-328]

TENNESSEE VALLEY AUTHORITY

Order for Evidentiary Hearing

In the matter of Tennessee Valley Authority (Sequoyah Nuclear Plant, Units 1 and 2).

Take notice that the evidentiary hearing in this matter will begin on Tuesday, July 30, 1974, at 9:30 a.m., in the Signal Mountain Room, 8th Floor, Holiday Inn, 401 West Ninth Street, Chattanooga, Tennessee. Persons desiring to make limited appearances will be permitted to do so on the initial day of the evidentiary hearing.

Dated at Bethesda, Maryland, this 15th day of July 1974.

It is so ordered.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

[FR Doc.74-16620 Filed 7-19-74;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Proposed Issuance of Amendment to Provisional Operating License

The Atomic Energy Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-22 issued to the Northern States Power Co. (the licensee) for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota, and currently authorized for operation at power levels up to 1670 MWt.

The amendment would allow operation of the facility utilizing a Prompt Relief Trip (PRT) system which provides for a predetermined number of safety/relief valves to be actuated promptly following a turbine or generator trip and would compensate for equilibrium core scram reactivity insertion functions by minimizing the peak pressure and fuel thermal effects resulting from pressurization type abnormal operational transients, in accordance with the licensee's application for amendment dated January 23, 1974, as supplemented.

On or before August 22, 1974, the applicant may file a request for a hearing with respect to issuance of changes to the Technical Specifications of the subject facility operating license, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required in 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by August 21, 1974. A copy of the petition and/or request should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For further details with respect to this action, see (1) the application for amendment dated January 23, 1974, and supplements thereto dated March 1, 8 and 19, 1974, and May 13, 1974, and (2) the Commission's Safety Evaluation issued March 14, 1974, on "Plant Modifications—Prompt Relief Trip (PRT) and Additional Safety/Relief Valve Blowdown Capacity". Both of these are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Library of Minnesota at 1222 SE. 4th Street, Minneapolis, Minnesota 55414. As they become available, the Commission's Safety Evaluation for use of the PRT and the license amendment may be inspected at the above locations. A copy of item (2) above and, when available, the Safety Evaluation and the license amendment may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 17th day of July, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-16701 Filed 7-19-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

MINNESOTA STATE ADVISORY COMMITTEE

Agency and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on July 26, 1974, at the Curtis Hotel, Tenth and Third Avenue South, Minneapolis, Minnesota 55404.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purposes of this meeting shall be to (1) begin planning Committee activities for FY 1975, (2) review list of potential nominees for membership to the Committee and (3) discuss plans for the proposed Native American Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., July 15, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-16688 Filed 7-19-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

POWER LAWN EQUIPMENT

Proceeding for Development of Safety Standard

The Consumer Product Safety Commission has preliminarily determined (1) that hazards associated with power lawn mowers, lawn tractors, and lawn and garden tractors (all hereinafter referred to as power lawn mowers) present unreasonable risks of death or injury and (2) that one or more consumer product safety standards are necessary to eliminate or reduce those unreasonable risks of injury.

Accordingly, pursuant to section 7 of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1212-15; 15 U.S.C. 2056), this notice commences a proceeding for the development of a consumer product safety standard applicable to power lawn mowers.

The development period for this standard shall end on December 19, 1974. The Commission, however, may extend the development time if it finds for good cause that a longer period of time is appropriate. Any such extension will be announced by a notice in the FEDERAL REGISTER.

Persons interested in submitting existing standards or offering to develop a standard must follow the regulations (16 CFR Part 1105 issued under section 7 of the act) concerning the submission of existing standards, offers to develop standards, and the development of standards. Relevant portions of the procedures prescribed by Part 1105 for submitting an existing standard as a proposed consumer product safety standard or offering to develop a consumer product safety standard are included below.

Part 1105 was promulgated in the FEDERAL REGISTER of May 7, 1974 (39 FR 16206). Copies may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street NW, Washington, D.C. 20207 (phone 202-634-7700).

On August 15, 1973, the Outdoor Power Equipment Institute (OPEI) petitioned the Consumer Product Safety Commission, pursuant to section 10 of the act (15 U.S.C. 2059), to commence a proceeding for the development of a consumer product safety standard for power lawn mowers. In its petition, OPEI also requested the Commission to publish a standard of the American National Standards Institute, ANSI B71.1-1972 entitled "Safety Specifications for Power Lawn Mowers, Lawn and Garden Tractors, and Lawn Tractors," with added amendments and a compliance program as a proposed consumer product safety standard.

On November 16, 1973, the Commission, on the basis of data and other information submitted by OPEI, consideration of injury data reported by the National Electronic Injury Surveillance System (NEISS), and review of data and information gathered by the National Commission on Product Safety, granted that portion of the OPEI petition which requested the Commission to commence a proceeding to develop a consumer product safety standard for power lawn mowers. The Commission, however, pursuant to section 10(d) of the act (15 U.S.C. 2059(d)), denied by letter dated December 20, 1973, the OPEI request to publish ANSI B71.1-1972, with added amendments, as a proposed consumer product safety standard. This portion of the petition was denied because the Commission believed it should solicit offerors to develop a standard pursuant to section 7(b) of the Act and allow others to submit previously issued or adopted standards as a proposed consumer product safety standard.

Copies of said petition, the briefing package prepared for the Commission by its staff in connection with the petition, and the research data referred to above are available for public inspection in the Office of the Secretary.

In accordance with section 7(b) of the act and the regulations (16 CFR Part 1105) issued under section 7 of the act, this notice (1) identifies the product and the nature of the risks of injury associated with the product, (2) is based on a determination that a consumer product safety standard is necessary to eliminate or reduce the risks of injury, (3) includes information with respect to existing standards known to the Commission that may be relevant to this proceeding, and (4) invites any person to submit an existing standard as a proposed consumer product safety standard or to submit an offer to develop a proposed consumer product safety standard for power lawn mowers.

A. *Nature of the risk of injury.* Information about injuries associated with power mowers indicating a need for remedial action has been developed by Commission staff and other sources. This includes:

1. Hazard analysis of in-depth investigations conducted originally by the Food and Drug Administration and later by the Consumer Product Safety Commission, from June 1, 1964, through September 30, 1973.

2. NEISS surveillance data reported from January 1, 1973, through December 31, 1973. From the data for this period, it is estimated that over 64,000 injuries were treated in all hospital emergency rooms from accidents related to power lawn mowers.

3. Hearings of the National Commission on Product Safety, 1968-1970: Volume 5 (pp. 63-274), Supplement II (pp. 499-509), and Final Report (pp. 28-30).

4. "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare With an Adequate Margin of Safety," published by the Environmental Protection Agency, March 1974, EPA Stock No. 550/9-74-004 (to be published by GPO as No. 550-00120).

5. Substantial product hazard notifications made to the Commission pursuant to section 15(b) of the act (15 U.S.C. 2064(b)).

Copies of the above items are available for inspection in the Office of the Secretary.

After review of said information, the Commission has preliminarily determined that the hazards associated with power lawn mowers present unreasonable risks of death or injury. The hazards and the nature of the risks of injury include:

1. Lacerations, amputations, avulsions, and other injuries or death resulting from operator contact with the rotating blade.

2. Lacerations, punctures, and other injuries or death caused by objects propelled by the mower blades.

3. Lacerations, contusions, abrasions, and other injuries or death resulting from the rolling, slipping, or overturning of power lawn mowers or by failure of power lawn mower brakes or power lawn mower steering mechanisms.

4. Burns and other injuries or death resulting from direct contact with exposed heated surfaces of power mowers or from fires caused by ignition of liquids used as fuels for power lawn mowers.

5. Injuries or death caused by electric shock from power sources of electrically powered lawn mowers or electrical systems of nonelectrically powered lawn mowers.

6. Potential for hearing loss and nonauditory trauma from exposure to excessive noise.

B. *Existing standards.* The Commission has received information about the existence and provisions of the following

standards and specification that may be relevant to this proceeding:

1. Federal Specification 00–M–1243, "Mower, Lawn, Power (Rotary, Flat-Knife, 21-Inch, Gasoline Engine Driven)," December 14, 1972, issued by the Federal Supply Service, General Services Administration. This is a purchasing specification, not primarily a safety standard, and includes several provisions unrelated to reducing risks of injury associated with power lawn mowers. For safety specifications it refers to ANSI B–71.1 (no date cited; current revision identified in B6 below).

2. Federal Specification 00–M–1688, "Mowers, Lawn, Power (Rotating Reel, Gasoline Engine Driven)," November 3, 1972. The comments in B1 above apply to this specification as well.

3. Federal Specification 00–M–1689, "Mower, Lawn, Gasoline Powered (Rotary, Flat-Knife, 24 Through 60 Inches, Gasoline Engine Driven)," January 10, 1973. The comments in B1 above apply to this specification as well.

4. Federal Invitation to Bid, FPGA–E–69800–1A, "Two-Step Formal Advertising For FSC–3750—Lawnmowers," expired May 29, 1974, issued by the Federal Supply Service, GSA. This is a request for bids based on Federal Specification 00–M–1243 (identified in B1 above). Although it refers to ANSI B71.1–1972 (identified in B6 below) for safety requirements, it contains guidelines for lubrication systems, blade stopping time, blade speed, discharge openings, insulation of spark plug lead terminals, and noise levels all of which are more stringent than those in the referenced purchase specification (B1 above) and referenced safety standard (B6 below). Nevertheless, the noise levels specified do not meet the guidelines established by the Environmental Protection Agency.

5. Occupational Safety and Health Administration regulations, 29 CFR: § 1910.95 *Occupational noise exposure* and Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment (§§ 1910.241–1910.247). These are safety requirements. Section 1910.95 sets forth general requirements regarding occupational noise exposure and is being reviewed by OSHA. Sections 1910.241(c) and 1910.243(e) contain specifications for power lawn mowers; however, these specifications are out of date because they refer to ANSI B71.1–1968 (see B6 below) and the 1968 version has been superseded by ANSI B71.1–1972.

6. American National Standards Institute, ANSI B71.1–1972, "Safety Specifications for Power Lawn Mowers, Lawn and Garden Tractors, and Lawn Tractors," first issued in 1960 and revised in 1964, 1968, and 1972. The current revision, ANSI B71.1–1972, was issued to be effective for mowers manufactured after July 1, 1972. Whether this latest revision has had any effect on injury rates is not yet clear. The revision, however, does not appear to be adequate for elimination of safety related defects for the following reasons:

a. *Contact with the rotating blade.* The performance test concerning contact with the rotating blade in ANSI B71.1–1972 uses a simulated foot probe inserted into the discharge chute. The test appears to be inadequate because the probe is not inserted under other areas of the mower housing. In addition, there is no performance specification for prevention of hand contact with the rotating blade when the operator leaves his normal operating position to make mower adjustments, clear grass from the discharge chute, or the like. There are design specifications requiring guards and warnings.

b. *Propelled objects.* The test specification for propelled objects is based on introducing objects into the mower housing and evaluating those expelled through the discharge chute. This test does not cover objects discharged elsewhere around the perimeter of the housing, although certain design specifications, such as the rear protective shield, may prevent objects from being propelled.

c. *Stability, handling, braking, and steering.* There are performance specifications for stability and braking of riding vehicles, but no performance specifications for handling and steering of riding vehicles. There are no performance requirements for walk-behind mowers, although there is a design requirement mandating use of a trailing shield. No warning device is specified to indicate to the operator when a slope is too steep for safe operation.

d. *Electrical hazards.* The scope of this standard is not intended to completely cover electrical requirements. For those that are addressed, there are no objective performance specifications. The shielding requirement for the spark plug lead wire terminal appears to be inadequate.

e. *Noise hazards.* Specifications in ANSI B71.1–72 concerning noise levels do not meet guidelines established by the Environmental Protection Agency for protection of the public health and welfare.

7. German standard, DINI856, "Motor-Driven Lawn Mowers," November 1972. The specifications in this standard are similar to those in ANSI B71.1–1972 (identified in B6 above). There is a performance specification relating to fuel hazards in which the temperature of the fuel is measured after 30 minutes of operation to insure that it has not become excessively warm.

8. Underwriters' Laboratories, Inc., UL82, "Standard for Electric Gardening Appliances," March 9, 1973. Parts of this standard are applicable to lawn mowers powered with electrical motors. Its mechanical specifications reference ANSI B71.1–1972. The footprobe test for blade contact in the UL standard is more stringent than that specified in the ANSI reference standard.

9. Power lawn mower standards from Australia, Canada, New Zealand, and Sweden. These are similar to early versions of ANSI B71.1 (identified in B6 above).

Copies of the above-listed items are available for public inspection in the Office of the Secretary.

C. *Invitation to offerors.* Pursuant to section 7 of the act and the regulations issued thereunder (16 CFR Part 1105), an invitation is hereby extended to all standards writing organizations, trade associations, consumer organizations, professional or technical societies, testing organizations and laboratories, university or college departments, wholesale or retail organizations, Federal, State, or local government agencies, engineering or research and development establishments, ad hoc associations, companies, and persons (all hereinafter called persons) to submit to the Commission on or before August 21, 1974, either of the following:

1. One or more existing standards as a proposed consumer product safety standard in this proceeding.

2. An offer to develop one or more proposed consumer product safety standards applicable to power lawn mowers to reduce or eliminate any or all of the unreasonable risks of injury associated with power lawn mowers identified in this notice.

Persons who are not members of an established organization may form a group for the express purpose of submitting offers and developing standards. Such groups are referred to in the regulations as ad hoc associations (16 CFR 1105.5). An offer by an ad hoc association may be submitted by an individual member if the offer states that it is submitted on behalf of the members of the association. The individual member submitting the offer shall submit to the Commission a notarized copy of a power of attorney from each member of the group authorizing that individual member to submit an offer on behalf of each other member.

D. *Submission of existing standards.* Persons may submit a standard previously issued or adopted by any private or public organization or agency, domestic or foreign, or any international standards organization, that contains safety-related requirements the person believes would be adequate to prevent or reduce the unreasonable risks of injury associated with power lawn mowers.

To be considered for publication as a proposed consumer product safety standard, standards previously issued or adopted must consist of (1) requirements as to performance, composition, contents, design, construction, finish, or packaging, or (2) requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions, or (3) any combination of (1) and (2).

The submission should, to the extent possible:

1. Identify the specific portions of the existing standard that are appropriate for inclusion in the proposed rule.

2. Be accompanied, to the extent that such information is available, by a description of the procedures used to develop the standard and a listing of the

persons and organizations that participated in the development and approval of the standard.

3. Be supported by test data and other relevant documents or materials to the extent that they are available.

4. Contain suitable test methods reasonably capable of being performed by the Commission and by persons subject to the act or by private testing facilities.

5. Include data and information to demonstrate that compliance with the standard would be technically practicable.

6. Include data and information, to the extent that it can reasonably be obtained, on the potential economic effect of the standard, including the potential effect on small business and international trade. The economic information should include data indicating (a) the types and classes as well as the approximate number of consumer products that would be subject to the standard; (b) the probable effect of the standard on the utility, cost, and availability of the products; (c) any potential adverse effects of the standard on competition; and (d) the standard's potential for disruption or dislocation, if any, of manufacturing and other commercial practices.

7. Include information, to the extent that it can reasonably be obtained, concerning the potential environmental impact of the standard.

E. *Offers to develop standards.* 1. Any person may submit an offer to develop a proposed consumer product safety standard for power lawn mowers. Each offer shall include a detailed description of the procedure the offeror will utilize in developing the standard. Each offer shall also include:

a. A description of the plan the offeror will use to give adequate and reasonable notice to interested persons (including individual consumers, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, Federal and State agencies, educational institutions, and consumer organizations) of their right and opportunity to participate in the development of the standard;

b. A description of the method whereby interested persons who have responded to the notice may participate, either in person or through correspondence, in the development of the standard; and

c. A realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the standard development period.

2. Each offeror shall submit with the offer the following information to supplement the description of the standard development procedure:

a. A statement listing the number and experience of the personnel, including voluntary participants, the offeror intends to utilize in developing the standard. This list should distinguish between (i) persons directly employed by the offeror, (ii) persons who have made a commitment to participate, (iii) organizations that have made commitments to provide a specific number of personnel, and (iv) other persons to be utilized, although unidentified and uncommitted at the time of the submission of the offer. The educational and experience qualifications of the personnel relevant to the development of the standard should also be included in the statement. This list should include only those persons who will be directly involved in person in the development of the standard.

b. A statement describing the type of facilities or equipment the offeror plans to utilize in developing the standard and how the offeror plans to gain access to the facilities or equipment.

3. Prior to accepting an offer to develop a standard, the Commission may require minor modifications of the offer as a condition of acceptance.

F. *Contribution to the offeror's cost.* 1. The Commission may, in accepting an offer, agree to contribute to the offeror's cost in developing a proposed consumer product safety standard in any case in which the Commission determines:

a. That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and

b. That the offeror is financially responsible. It is the Commission's intent that contribution to the offerors cost will be the exception rather than the rule. The Commission expects that the bulk of the offerors' work will be done by volunteers or funded by non-commission sources.

2. If an offeror desires to be eligible to receive a financial contribution from the Commission toward the offerer's cost of developing a proposed consumer product safety standard, the offeror must submit with his offer to develop a standard:

a. A request for a specific contribution with an explanation as to why such a contribution is likely to result in a more satisfactory standard than would be developed without a contribution;

b. A statement asserting that the offeror will employ an adequate accounting system that is in accordance with generally accepted accounting principles to record standards development costs and expeditures; and

c. A request for an advance payment of funds if necessary to enable the offeror to meet operating expenses during the development period.

G. Submission information. All submissions, offers, inquiries, or other communications concerning this notice should be addressed to the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street N.W., Washington, D.C. 20207 (phone 202-634-7700). Submissions made in response to this notice should be in five copies if possible and must be received by the Office of the Secretary not later than August 21, 1974 to be considered in this proceeding.

Dated: July 17, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

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FEDERAL POWER COMMISSION

[Docket No. RM74-14]

PRIORITY OF NATURAL GAS DELIVERIES TO FERTILIZER INDUSTRY

Findings and Order After Rulemaking

JULY 16, 1974.

In the matter of proceeding regarding Senate resolution for higher priority of service category for fertilizer industry during periods of curtailed deliveries of natural gas supplies, Docket No. RM74-14.

On February 27, 1974, the United States Senate adopted S. Res. 289, Report No. 93-691, 93d Cong. 2d Sess., among other things declaring it to be the "sense of the Senate", that the Federal Power Commission should afford the highest priority of natural gas delivery to the fertilizer industry.

On March 20, 1974, this Commission issued Notice of Senate Resolution and Request for Comments in Docket No. RM74-14, for the purpose of soliciting comments from all segments of the natural gas industry, their customers, consumers, and all other interested persons including State regulatory agencies. The Commission specifically directed attention to points (1) and (2) of the Resolution and requested that the comments be directed to these points as they apply to the Commission and its statutory responsibilities under the Natural Gas Act.

Points (1) and (2) read as follows:

(1) All agencies of the Federal Government, which have any responsibility for establishing priorities for the allocation of materials and facilities utilized in the production or distribution of fertilizer, give the highest priority to the fertilizer industry regarding the allocation of such materials and facilities. The fertilizer industry, in turn, is urged to do its utmost in making these essential fertilizer supplies available to farmers in a timely and equitable manner, and at reasonable price levels;

(2) The Federal Power Commission and appropriate State regulatory agencies do everything within their power, in the establishment of priorities for the allocation of natural gas (including gas sold under interruptible contracts), to insure producers of synthetic anhydrous ammonia and defluorinated phosphate with supplies of natural gas sufficient to maintain maximum production levels.

Fifty-six responses have been received pursuant to the notice. Forty-four responses support the policy expressed in the Senate resolution, while twelve responses expressed opposition. Responses favoring the policy embodied in the Senate Resolution stressed substantive aspects of a policy favoring agriculture. Excerpts from typical responses in support of a higher priority for fertilizer manufacturers are presented below.

I. COMMENTS RECEIVED IN SUPPORT OF S. RES. 289

Matters of common knowledge in the nation today are that (1) the soaring cost of food products is one of the two chief factors of the current national inflationary trend, the other factor being, of course, the increasing cost of the various forms of energy; (ii) expected shortages of food are inevitably

to lead to still higher price levels as well as outright unavailability; and (iii) of prime concern in relation to food supply is the existing worldwide scarcity of fertilizers. Awareness of these critical facts was amply demonstrated by the Commission in the notice it issued in the instant docket. (Mississippi Chemical Corporation, page 4).

In this regard, most of the responses have acknowledged the shortage of chemical fertilizers and most of the producers have indicated that they are allocating the product as a result of such shortages. Many comments contained the statement that the domestic anhydrous ammonia production industry is in an under-capacity situation wih respect to current demand.

During the present crop year, July 1973–June 1974, domestic nitrogen supplies are anticipated to be at least 1.5 million tons of nitrogen (equivalent to three million tons of material) short of farmer demand. This shortage will be a result of a host of factors, i.e., increased planting of crops that may be as much as 25 million acres over 1973, national policy and objective for high crop production with anticipated benefits of increased farm exports and the resulting positive contribution to balance of trade, absence of reserve production capacity to fall against for additional production, natural gas curtailments, etc.

The principal concern over the nitrogen shortage—whether due to limited production facilities or to production rates in turn determined by natural gas feedstock supplies—is that the shortage means a loss in food production.

Food production, whether in the rice paddies of Asia or the grain basket of the U.S., has particular significance this year. The crop year 1974 is projected to be the third-straight-running where grain consumption will exceed production. The drawdown of world grain stocks during the past year has largely removed the "shock absorber," and we are now at rock-bottom levels of grain stocks. Nearly all nations are making special efforts to increase food production. Few, if any, production inputs, aside from seed itself, give a marginal return as high as fertilizers—10 tons of grain for one ton of nutrients. Expressed in terms of fertilizers, the return has a ratio of 1:5 because fertilizers usually will contain about 50 per cent by weight nutrient content when applied to fields. (The Fertilizer Institute, pages 4 and 5).

Certain comments dealt with the rationale of providing a preference to fertilizer manufacturers for feedstock and process uses.

As this Commission is well aware, Order 467-B's priority (2) includes all feedstock and process uses (as presently constituted, which are served on a firm basis). There can however, be no doubt that at this point in time while we are in the midst of a fertilizer crisis, certain other feedstock and process uses of natural gas are patently inferior to requirements for fertilizer production. (Columbia Nitrogen and Nipro, Inc. part IV (3)).

It is to be recognized that a particular use of natural gas may be nonsubstitutive but that the product generated by the use of the gas may serve a minimal utilitarian function in the national economy. If the Commission is faced with the asserted plight of a manufacturer of, say, hula hoops, who requires natural gas as a raw feedstock material for which there is no feasible alternative in the manufacture of his hoops, the Commission may very well grant that manufacturer a priority for gas over those who produce more essential goods but who can do so by making use of a fuel alternative to gas.

• • • However, in circumstances of a widespread unavailability of fossil fuels of all types, a grant of a high gas entitlement priority to a hula hoop producer may wreak hardship on the manufacturer of a product more essential to the national economy who may have full alternate fuel capabilities but no access to adequate alternate fuel supplies. In this case, "a hard and critical choice must be made to grant a higher priority to the industry determined to be most important to the national welfare." Notice issued in the instant docket on March 20, 1974 (mimeo. pp. 6-7). (Mississippi Chemical Corporation at pages 6 and 7).

The following comment typified support for eliminating the existing distinction between firm and interruptible users.

As the Commission points out in its Notice, the non-substitutable feedstock (and process) requirements of fertilizer manufacturers presumably fall within either Priority 2 or Priority 3 of the Commission's Order No. 467-B priorities, depending upon whether those requirements are purchased under "firm" or "interruptible" contracts or rate schedules. Since the extent of curtailments of interstate pipelines into Priority 2 requirements is quite limited at present, the fertilizer manufacturers which are experiencing difficulty in obtaining adequate supplies of natural gas for their non-substitutable feedstock and process uses most probably are those manufacturers which purchase natural gas for non-substitutable uses under "interruptible" contracts or tariffs. The feedstock and process requirements of these manufacturers are in Priority 3 which, on many pipeline systems, is subject to substantial curtailment for much of the year. • • • The non-substitutable feedstock and process requirements of fertilizer manufacturers could be afforded substantially greater protection from curtailment simply by placing all nonsubstitutable industrial requirements in priority (2), rather than splitting those requirements between priorities (2) and (3) depending upon the varying policies of different pipeline companies and local distributors. Moreover, such a revision of the priorities would avoid the pitfalls of a product-oriented approach described above, and would conform with the spirit of Senate Resolution 289 to provide maximum protection to interruptible requirements of fertilizer manufacturers. (General Motors Corporation, the Brick Institute of America, and the Georgia Industrial Group at pages 4 and 5).

The conclusions and specific requests of the fertilizer industry are represented by the following recommendations to the Commission:

1. Follow the rationale stated in several FPC dockets prior to Order 467-B in that *end use* should be the determinant for priorities during curtailment—not type of contract. Hence, natural gas used for feedstock or process gas in anhydrous ammonia and defluorinated phosphate production should be given Priority 2 irrespective of contract.

2. FPC exercise national leadership within the bounds of existing statutes with the various state utility commissions in getting them to adopt the above policy.

3. Ammonia plants dedicated to producing fertilizer nitrogen for domestic use be given Priority 1, same as residential, or failing this,

4. If FPC is unquestionably excluded by the Natural Gas Act to dedicate or in any way authorize end use preference for new gas for continued operation or existing plants or for new plants, it should propose to Congress appropriate legislation that would assure priority of ammonia production from new gas sources.

5. Deregulate immediately wellhead prices for new natural gas discoveries. (The Fertilizer Institute, pages 10 and 11.)

Comments of the U.S. Department of Agriculture were similar to those expressed by others except for the Department recommendation that whenever curtailment reached Priority 2, all fertilizer plants with interruptible contracts would be curtailed before any plant with a firm contract.[1]

Several comments cited the shortage of defluorinated phosphates and the adverse impact on livestock production.

A shortage of feed phosphates will affect the livestock producer and ultimately the customer in many ways. A shortage of feed phosphate, for example, will cause a decline in the production of milk, may cause low conception rates in cattle, reduce the rate of gain and increase the amount of feed required in all classes of animals. In addition, inadequate levels of phosphates causes lack of appetite, bone abnormalities, stiffness of the joints, and other factors. These problems would eventually have a direct effect on consumers, because it would affect both the availability and the price of milk, meat and eggs. (Golden Sun Feeds, Inc.)

Only one response claimed need for natural gas as a process fuel to maximize production of defluorinated phosphate feed.

The production of both super phosphoric acid, which is a key component in fertilizer, and defluorinated phosphate feed supplements, depend on the use of natural gas as a process fuel. There are no alternative fuels which provide the precise flame and temperature characteristics necessary to maximize production of either super phosphoric acid or defluorinated phosphate. (Occidental Chemical Company at page 1).

Several comments were addressed to priorities for natural gas requirements not specified in the Senate Resolution. An excerpt from a typical response follows:

The alfalfa dehydrating industry uses natural gas to dry the green chopped alfalfa in a rotary drum type drier. Dehydrators are not equipped to use other types of fuel; therefore, there is no substitute for natural gas. (American Dehydrators Association).

In addition to supporting the fertilizer priority, this comment was offered.

Since the meat packing industry is considered an essential industry in the United States, we feel that a special high priority should be afforded our industry. It seems only logical that if high priority is given to the fertilizer industry, the same high priority should be given for the processing of crops or livestock produced from the use of such fertilizer. (American Meat Institute).

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[1] Our response to the effect of firm or interruptible contracts is found in section III. of this Order.

Another response stated that there is a shortage of sugar on the world market and further concluded:

It would hardly be logical or reasonable to provide special high priority to the fertilizer industry without at the same time providing for a special high priority for the processing of the crops produced from the use of the fertilizer. (American Sugar Cane League of the U.S.A., Inc. at page 3)

The following comment illustrated another view regarding inclusion of a feedstock user in a priority as high as that proposed for fertilizer manufacturers.

Appendix A indicates the variety and importance of the industrial and consumer products manufactured by the petrochemical industry. Many products manufactured from natural gas feedstocks are as important to the national welfare as fertilizers.

For example, a severe cutback of the supply of natural gas feedstocks needed to make petrochemical-based pesticides, as well as fertilizers, would cripple the American farmer and amount to a real setback to the economy since bigger crops in future years are the country's main hope of holding down food prices.

Some have predicted that without pesticides we could expect the following results.

Crop and livestock output would be reduced by about 40 percent.

The price of food would increase anywhere from 50 percent to 75 percent.

Farm exports would be wiped out. (Petrochemical Energy Group at page 4).

These comments are illustrative of the difficulties in establishing a definition of agriculture-related activities which might be accorded special priority within the spirit of the Senate Resolution.

II. Comments in Opposition to S. Res. 289

Several comments were received expressing opposition to the grant of a higher priority to manufacturers of anhydrous ammonia fertilizers and defluorinated phosphates. Many of these comments stressed procedural issues and the scope of the Commission's authority under the Natural Gas Act.

In its notice, the Commission properly indicated that the Commission "must determine priorities on the basis of an evidentiary record developed in a proceeding * * * as prescribed by the Natural Gas Act and the Administrative Procedures Act" (Notice p. 7). Ark-Mo, *et al.* agree that allocations of natural gas should be made on the basis of an evidentiary record. Therefore, Ark-Mo, *et al.* respectfully submit that no action in this docket should be taken that would prejudge or otherwise adversely affect the rights of parties participating in proceedings related to the petitions for extraordinary relief of Carnegie Natural Gas Company and North Alabama Gas District. Any Commission decision on those petitions must be made on the evidence adduced in those dockets. To do otherwise would be to adversely affect and deny due process to Ark-Mo., *et al.* (Ark-Mo., *et al.*)

A major pipeline company experiencing heavy curtailment made the following observations.

* * * if fertilizer manufacturers were granted a special priority due to the importance of their products to agricultural production, it would be most difficult to deny similar status to companies directly engaged in any phase of agricultural processing or food production.

Moreover, the establishment of a special curtailment priority for fertilizer manufacturers would not be an efficient means of meeting the objectives of S. Res. 289. Even if there is a serious fertilizer shortage today, it may not affect all manufacturers and regions of the country to the same degree. Any existing shortage might also be eliminated in the future. Once granted a special curtailment priority, however, all fertilizer manufacturers both now and in future years would lack any incentive to obtain and use alternate fuels in their operations, even if such fuels were available and their use feasible. (United Gas Pipe Line Company at pages 2 and 3)

Comments regarding the Senate Resolution in relation to residential and small commercial natural gas usage and comparative needs of other industrial use are illustrated as follows:

Point (1) declares it to be the sense of the Senate that, in the allocation of materials utilized in the production of fertilizer, the highest priority should be given to the fertilizer industry. It is not clear whether this means that gas used to make fertilizer should be given the highest industrial priority or whether it means that gas used to make fertilizer should be ranked with or above residential and small commercial usage. If the latter is meant, this will not do at all for residential gas distribution consumers cannot be "curtailed" in the manner that industrial usages can be curtailed. In residential gas distribution systems, service to individual consumers can be cut off completely if necessary to maintain safe pressure levels in a distribution system but it is not physically possible to reduce service proportionately to all consumers served by such a system. Obviously, cutting off service to residential and small commercial consumers completely would not be acceptable or in the public interest.

* * * the importance of the fertilizer industry and its needs for natural gas cannot properly be considered in a vacuum, without reference to needs of many other vitally important industries which use natural gas. And, if the special needs of any particular industry should call for a change in the Commission's general policies, this could only be determined properly upon an evidentiary record of comparative needs. (Consolidated Gas Supply Corporation and Equitable Gas Company at page 1 and 2).

The following comments present views concerning alternate feedstock and process fuels for the production of anhydrous ammonia.

In its Notice and Request for comments, the Commission sets forth data provided by the Fertilizer Institute[1] which states in effect that *all* domestic anhydrous ammonia used in the production of nitrogen fertilizer is produced by natural gas purchased from interstate and intrastate suppliers. This is simply not correct. In fact, alternate feedstock raw materials besides gas from which hydrogen can be produced include refinery gas, coke oven gas, LP gas, naphtha, kerosene, diesel fuels, fuels oil, crude oil, coal, lignite, wood, and by-products from refiner and chemical plants.[2]

In addition, Respondent believes that much of the present natural gas usage in fertilizer plants alluded to in the Fertilizer Institute data is for boiler fuel or other low priority purposes. For example, in the recently completed hearings in Docket No. RP74-39-3, the evidence indicated that United States Steel Corporation (the recipient of the special relief requested), one of the primary producers of anhydrous ammonia in the northeast, used none of its natural gas supply from Texas Eastern for feedstock fuel to run various compressors and electric turbine generators in its Clairton ammonia plant. The feedstock fuel actually used in the production of anhydrous ammonia at Clairton was coal or coke oven gas. We believe these circumstances are not limited to the Clairton plant.[3]

No one need be reminded that this country is presently experiencing an energy crisis. However, it has been Brooklyn Union's experience that alternate fuels, more specifically middle distillates and residual fuels, have been and are available so long as the affected industry is willing to pay increased prices. (The Brooklyn Union Gas Company at pages 2 and 3).

If certain customers are to be favored at the expense of others, there must be a showing of *public* rather than corporate benefit. Before any special allocation of natural gas to fertilizer manufacturers is allowed, such applicants for special relief should be required to show that alternate fuels are not available *in fact*. Otherwise, fertilizer production will not be increased, only the corporate profits of fertilizer manufacturers. (Florida Cities at page 3).

One respondent objected to priority for exported fertilizer, disclosing possible issues with respect to administrative policy concerning balance of trade.

Data supplied by the Fertilizer Institute shows that approximately 13% of the annual production of ammonia from natural gas is eventually exported as fertilizer. The Commission is well aware that many billions of dollars are being expended to facilitate the importation of liquefied natural gas to meet the energy demands of this nation. The landed cost of this imported product will be seven or eight times the domestic area rates established by the Commission as just and reasonable. It is Washington's opinion that the importation of this premium fuel is not in the nation's interest, if priorities are given to its use that will produce a product that will eventually be exported. (Washington Gas Light Company at page 3).

One respondent cited legal and judicial arguments in opposition to preferential treatment for the fertilizer industry.

Although the precise limits of the extraordinary relief procedure have not yet been defined, there is *no* reason why such procedure cannot continue to provide the relief required by any fertilizer manufacturer. An *industrywide* exemption is simply not warranted. As the Commission recognized in its Notice, curtailment priorities must be determined in accordance with procedural requirements prescribed by the Natural Gas

[1] See data of Fertilizer Institute cited at 39 F.R. 11138 (March 25, 1974).

[2] *Texas Eastern Transmission Corporation*, Docket No. RP74-39-3 Tr. 47-50; See also, Sahota, *Fertilizer in Economic Development* (1968), P. 92.

[3] *Texas Eastern Transmission Corporation*, Docket No. RP74-39-3 Tr. 32.

Act and the Administrative Procedure Act. The Commission's basic authority to promulgate curtailment plans and priorities stems from Section 5(a) of the Natural Gas act. In this regard the United States Court of Appeals for the District of Columbia Circuit has stated:

"Like any order issued pursuant to section 5(a), an interim order can only issue after full hearing and must include a statement of reasons based upon findings of fact which are supported by substantial evidence in the record. No emergency can excuse these procedural requirements" (*American Smelting and Refining Co.* v. *FPC*, Nos. 72-2204, *et al.*, January 21, 1974, slip op. at 17).

Regardless of whether relief is of an interim or permanent nature, it is difficult to imagine how an order granting relief to an *entire industry* could satisfy these evidentiary and procedural requirements. (Owens-Illinois, Inc. at pages 5 and 6).

A closing comment expressing concern with a policy of providing natural gas for future fertilizer production capacity expansion is appended.

Finally, we believe the Commission must proceed with utmost caution with respect to providing gas for any expansion of existing facilities by fertilizer manufacturers. For such action could well result in an increased demand for gas upon pipeline systems already in curtailment, at the expense of causing serious dislocation to other vital industries. Certainly the Commission should not provide relief in such circumstances unless it can be demonstrated that the new or expanded fertilizer facilities not only require the use of gas, but are essential to the maintenance of domestic food supplies. We seriously doubt whether the Commission can properly authorize expanded gas use for fertilizer at the necessary expense of other domestic industries where the object of the expansion is to increase supplies of fertilizer, or food produced from fertilizer, for export. In fact, were the Commission to adopt new policies based upon the nature of the industrial product being manufactured through the use of natural gas, the Commission should, in our view, give careful consideration to limiting any preferential treatment afforded such products to those intended for the domestic market. (Public Service Commission of the State of New York at page 2).

III. Analyses of Comments

The Commission appreciates the interest of the fifty-six entities responding to the notice. As noted earlier, forty-four comments stressing substantive issues in support of Senate Resolution 289 were received. Most noteworthy among these forty-four responses was an almost total lack of criticism of our existing procedures for granting extraordinary relief from curtailment.[1] From this it appears that even among those who seek higher category treatment for the fertilizer industry there is little or no dissatisfaction with our existing procedures for extraordinary relief in Order No. 467.

Our existing procedures may be briefly summarized as follows: The initial priority accorded natural gas used by the fertilizer industry could vary depend the natural gas is used as feedstock or as fuel, and (2) whether the natural gas purchase contract held by the manufacturer is considered firm or interruptible.

If the industrial contract is firm, the portion of natural gas requirements for use as a feedstock or process gas would be placed in priority (2), subordinate only to gas needed for residential and small commercial requirements.

If the contract is firm, the portion used as non-process fuel would generally fall into priority (3) unless the natural gas is used as boiler fuel which would qualify its inclusion into priorities (4) or (5) depending upon the relative size of the requirement.

If the fertilizer manufacturer holds an interruptible natural gas purchase contract, its requirements for feedstock, process gas, and plant protection would be placed in priority (3). All other requirements will be placed into priorities (6) through (9).

Order 467-B prescribes procedures for obtaining extraordinary relief from curtailment upon a proper application and evidentiary showing. Under the provision of that order we have entertained a number of petitions seeking relief from curtailment from the fertilizer or phosphate feed industry.[1]

Our policy with respect to such applications for extraordinary relief is related to our policy stated in the notice in this docket in which we made reference to the balancing of public and private benefits on the basis of an evidentiary record developed in a proceeding before the Commission as prescribed in the Natural Gas Act and the Administrative Procedure Act. As we noted, even if a national policy of conservation reduces electric energy and natural gas consumption by 10 percent, we are still confronted with the national economy of energy scarcity requiring equitable allocations to avoid economic dislocation apart from substitutability. In a national energy emergency it is axiomatic that any increase in industrial consumption of rationed fuel due to grant of relief from curtailment can be accomplished only by a corresponding diminution of consumption of that fuel in some other sector of the economy.

As we further noted, if the basic feedstock for an end-use is nonsubstitutable, as in the case of natural gas use for the production of nitrogen fertilizer or for other special applications in the petrochemical industry, there can be no reference to other fuels and the burden of the shortfall must either be equitably shared on a priority basis by the affected industries or a hard and critical choice must be made to grant a higher priority to the industry determined to be most important to the national welfare. We are not afraid of hard choices in individual cases, but we are mindful of the observation of Mr. Justice Holmes that "hard cases make bad law."[1] A solution which might work admirably in one situation if elevated to the status of a rule, might work a terrible injustice in another.

Our disposition of this docket is based upon an analysis of all comments received and reflects our conviction that a workable and suitable rule cannot be developed granting relief to the fertilizer industry. As indicated in several comments, the fertilizer industry cannot be considered in isolation from other agriculture-related activities such as grain drying[2] and sugarbeet processing. Development of a suitable workable rule requires the identification of a class of users to fit within the relief prescribed by the rule. In the present case, comments from agriculture related industries not engaged in the manufacture of fertilizer suggest that it would be unwise to consider the fertilizer industry in isolation.

Another difficulty in developing a suitable and workable rule is presented by the clear obligation laid upon us by the Natural Gas Act and the Administrative Procedure Act, which imposes upon us the requirement that all decisions and rules be developed on the basis of an appropriate record. Assuming for the sake of argument that a suitable and workable rule could be developed which would meet the legal requirements of the Natural Gas Act, any rule-making proceeding sufficient to adjudicate the full panoply of interests represented by all customers of all jurisdictional pipelines experiencing curtailment would be cumbersome and could take years to complete, if it could be completed at all. We can not implement any shortcuts without discharging our duties under the Natural Gas Act and the Administrative Procedure Act. Senate Resolution 289 suggests the immediacy of a problem relating to 1974 agricultural production. Under the

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[1] The Occidental Chemical Company commented that the Commission had not provided any method by which the needs for expanded feedstock and process uses can take precedence over present use of natural gas as a boiler fuel. The Commission's power to authorize expanded use is defined in sections 7(a) and 7(c) of the National Gas Act. The United States Department of Agriculture stated, "The Department is appreciative of the splendid cooperation shown by the FPC in granting extraordinary relief from curtailment to agriculture and agricultural related activities, such as for grain and seed drying and sugarbeet processing. However, it is our conviction that the priority-of-service categories should reflect the importance of agriculture and related activities to the extent that it would not be necessary to resort to the appeals procedure". No critique of the extraordinary relief procedures of the Commission was offered in support of this conviction.

[1] *Texas Southern Transmission Corporation*, Docket No. RP73-39-3; *Southern Natural Gas Company*, Docket No. RP74-6, *et al.*; *Georgia Natural Gas Company*, Docket No. RP74-65-1; *Florida Gas Transmission Corporation*, Docket Nos. RP74-50-3 and RP74-50-4; and *Texas Eastern Transmission Corporation*, Docket No. RP74-39-3.

[1] *Northern Securities Co.* v. *United States*, 193 U.S. 197, 400 (dissenting opinion, 1904).

[2] See comment of American Dehydrators Association, page 6, *supra*.

circumstances our existing procedures capable of providing immediate relief are preferable to rule-making. Accordingly, we are of the opinion that further proceedings in this docket are not warranted.[3]

We find no inevitable conflict between our current procedures and the policy of assisting increased agricultural production stated in Senate Resolution S. 289. In this regard, we are especially appreciative of the laudatory remarks of the United States Department of Agriculture in its comment. It was noted therein "The Department is appreciative of the splendid cooperation shown by the FPC in granting extraordinary relief from curtailment to agriculture and agricultural related activities, such as for grain and seed drying and sugarbeet processing." We shall continue to entertain petitions for extraordinary relief from curtailment from all natural gas consumers with standing including fertilizer industries and agriculture related activities and grant such relief as may be warranted from the record. Experience to date has demonstrated that these procedures are equally applicable and functional irrespective of whether the proposed recipient of the relief holds a firm or interruptible gas purchase contract.

The proposal for the Commission to provide natural gas necessary to permit future expansion of fertilizer production capacity calls for the Commission to, in effect, prejudge the outcome of a proceeding involving an application filed under the Natural Gas Act to effectuate such request. The Commission's authority under sections 7(a) and 7(c) and of the Act to approve construction of facilities for transporting or selling natural gas in interstate commerce to new industrial consumers is clearly defined. Equally as well defined and as ultimately controlling are procedures arising under its authority as dictated by the Administrative Procedure Act.

The Commission finds:

(1) That the existing procedures of the Commission are adequate to protect the interests of fertilizer industries and agriculture related activities.

(2) That good cause exists that the proceedings in this docket be terminated.

The Commission orders:

That the proceedings instituted in this docket are hereby terminated.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-16623 Filed 7-19-74;8:45 am]

[3] The comments of Air Products, Inc., and the Fertilizer Institute requested hearings on the proposed rule-making.

[1] Commissioner Springer, concurring, submitted a separate statement, filed as part of the original document.

[Rate Schedule Nos. 37, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Rate Change Filings; Correction

JULY 11, 1974.

In the Notice of Rate Change Filings Pursuant to Commission's Opinion No. 639 issued July 2, 1974, and Published in the FEDERAL REGISTER on July 11, 1974, 39 FR 25546, Appendix page 25546, Mobil Oil Corporation Rate Schedule No. 292, under column headed "Rate Schedule No." change "292" to "169" opposite Mobil Oil Corporation.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-16624 Filed 7-19-74;8:45 am]

[Docket No. RP74-90]

CONSOLIDATED GAS SUPPLY CORP.

Order Accepting for Filing

JULY 15, 1974.

On May 16, 1974, Consolidated Gas Supply Corporation (Consolidated) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. These tariff sheets were accepted for filing and suspended for five months by Commission order issued June 24, 1974, in Docket Nos. RP74-90 and RP73-107.

On June 14, 1974, Consolidated tendered for filing Third Substitute Twenty-Fourth Revised Sheet No. 8 to its FPC Gas Tariff, First Revised Volume No. 1 with a proposed effective date of July 15, 1974. Consolidated states that this proposed tariff sheet is based on increased transportation charges by two of its suppliers, Texas Eastern Transmission Corporation (Texas Eastern)[1] and Transcontinental Gas Pipe Line Corporation (Transco).[2] These charges have been suspended and set for hearing in those dockets and became effective on June 14 and July 1, 1974 respectively. Consolidated states that it was denied its request to include transportation charges in its PGA clause by Commission orders in Docket No. RP72-157, and that accordingly it must recover increases in such charges in a general rate increase. Consolidated further states that if it cannot recover such charges on a timely basis, it will be exposed to approximately $736,000 of unrecoverable costs. Consolidated undertakes to determine the actual costs incurred and the revenues collected under the proposed tariff sheet. Consolidated requests waiver of the notice requirements in order that the proposed tariff sheet may become effective on July 15, 1974. Rochester Gas and Electric Corporation filed a comment supporting this filing, provided that it is subject to adjustment when the rates herein are finally determined.

[1] Docket No. RP74-41.
[2] Docket No. RP74-48.

Our review of the filing indicates that Consolidated should be permitted to collect such increased transportation charges, subject to refund, pending decision in the Transco and Texas Eastern cases and in this case. Accordingly, we shall accept the proposed tariff sheet for filing and suspend its operation for one day until July 16, 1974, when it will be permitted to become effective, subject to refund as hereinafter ordered. We shall also grant permission pursuant to § 154.66 of the regulations to permit a change in a tariff contained in effect because of the June 24 suspension order.

The Commission finds:

It is necessary and proper and in the public interest in carrying out the provisions of the Natural Gas Act that the Commission grant Consolidated permission to amend its rates currently in effect and to accept for filing, suspend, and permit to become effective the proposed tariff sheet as hereinafter ordered.

The Commission orders:

(A) We hereby grant Consolidated permission, in accordance with § 154.66 of the regulations, to amend its currently effective rates and Consolidated's proposed tariff sheet is hereby accepted for filing and suspended for one day, and its use deferred until July 16, 1974, and until such time as it is made effective in the manner provided in the Natural Gas Act, subject to the condition hereinafter ordered.

(B) The rates and charges in such tariff sheet shall be subject to refund in the amount of any difference between the charges made to Consolidated and the revenues collected by Consolidated, subject to the outcome of the above mentioned Transco and Texas Eastern cases, and as determined after the hearing in this docket.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-16625 Filed 7-19-74;8:45 am]

[Docket No. RI74-194]

KWB OIL PROPERTY MANAGEMENT, INC.

Extension of Time and Postponement of Hearing

JULY 15, 1974.

On July 10, 1974, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued June 17, 1974, in the above-designated matter. The motion states that KWB and Cities Service Gas Company concur in the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

presidential documents

Title 3—The President

MEMORANDUM OF JUNE 29, 1974

[Presidential Determination No. 74-23]

Emergency Security Assistance for Israel

Memorandum for the Secretary of State and the Secretary of Defense

THE WHITE HOUSE,
Washington, June 29, 1974.

By virtue of the authority vested in me by section 4 of Public Law 93–199, the Emergency Security Assistance Act of 1973 (hereinafter "the Act"), I hereby release Israel from its contractual liability to the extent of $500,000,000 to pay for defense articles and defense services financed under the Act by the credit agreement entered into by the Government of Israel and the United States Government on June 3, 1974.

This memorandum shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.74-16953 Filed 7-19-74;4:27 pm]

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

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Service of evidence by KWB, August 22, 1974. Prehearing, August 29, 1974 (10 a.m. EDT).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16626 Filed 7-19-74;8:45 am]

[Docket No. CP74-316]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JULY 16, 1974.

Take notice that on June 7, 1974, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-316 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to acquire and develop three depleted gas fields, the Muttonville, Capac and Leonard Fields, into natural gas storage fields and to acquire, construct and operate facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Muttonville Field is a substantially depleted gas field located in Lenox Township, Macomb County, Michigan, approximately seven miles from the existing pipeline facilities of Great Lakes Gas Transmission Company (Great Lakes) in St. Clair County, Michigan. Applicant estimates that upon full development the field will provide 11.1 million Mcf of storage capacity for the 1976-77 winter period. Applicant states that it has contracted to acquire existing wells together with related facilities and approximately 25 percent of the storage rights in the field and has commenced appropriate proceedings before the Michigan Public Service Commission for a certificate authorizing it to acquire the remaining storage and surface rights in the field by condemnation. To develop the Muttonville Field Applicant proposes to drill additional facility wells and to construct and operate a gathering system, two 3,000 horsepower class units at the new Muttonville Compressor Station and a 6.7-mile 20-inch transmission line to connect the Muttonville Storage Field to the existing pipeline facilities of Great Lakes.

The application states that the Capac Field is a substantially depleted gas field located in Mussey and Lynn Townships, St. Clair County, Michigan, and Imlay Township, Lapeer County, Michigan, approximately seven miles from the existing pipelines facilities of Great Lakes in Lapeer County, Michigan. Applicant estimates that upon full development the field will provide 30 million Mcf of storage capacity for the 1977-78 winter period. Applicant further states it is acquiring the existing production facilities, has acquired substantial storage rights in the field and is actively seeking to acquire the remaining storage rights required to develop and operate the field for storage. To develop the Capac Field Applicant proposes to drill new facility wells, construct and operate a gathering system, three 4,500 horsepower class units at the Capac Compressor Station and a 7.1-mile 24 inch transmission line to connect the Capac Storage Field to the existing pipeline facilities of Great Lakes.

The third storage field described in the application is the Leonard Field located in Addison Township, Oakland County, Michigan, approximately 12 miles from the existing pipeline facilities of Great Lakes in Lapeer County, Michigan. Applicant states that it has contracted with Michigan Consolidated Gas Company (Consolidated) to acquire all of the latter's facilities and other property in the field including storage rights and will acquire, as soon as practicable, all remaining storage rights and interests necessary to develop and operate the field for storage. Applicant states that to develop the field for storage it will be necessary to drill additional facility wells and to construct and operate a field gathering system, two 2,000 horsepower class units at the new Leonard Compressor Station and a 11.6-mile 16 inch transmission line to connect the Leonard Storage Field to the existing pipeline facilities of Great Lakes in Lapeer County, Michigan. Applicant estimates that upon full development the Leonard Field will provide 11.2 million Mcf of storage capacity for the 1977-78 winter period.

Applicant anticipates that all three fields can be fully developed and necessary facilities constructed over the next three years. Applicant claims that the proposed storage development will provide 52,300,000 Mcf of additional working storage capacity, of which 45,900,000 Mcf is proposed to be cycled, and will enable Applicant to obtain an aggregate maximum daily withdrawal from the three storage fields at the end of March each year of 110,000 Mcf per day for 1975-76, 295,000 Mcf per day for 1976-77, and 550,000 Mcf per day for 1977-78.

Applicant states that additional storage capacity is essential to: (1) provide for gas sought to offset the decline in Applicant's existing reserves which will have to be taken at essentially 100 percent load factor, (2) permit Applicant's customers to alter their purchase patterns (creating increased winter seasonal and peak day requirements) in order to shift portions of their existing annual contract entitlement into higher end use markets, (3) provide for the anticipated growth in peak day and winter period requirements of Applicant's existing distribution customers for future winter periods, and (4) assist in maintaining deliveries from Applicant's pipeline suppliers.

Applicant states that to effect transportation and delivery of gas for injection into and withdrawal from the Muttonville, Capac and Leonard storage fields, Applicant has entered into a transportation agreement with Great Lakes providing for the transportation of gas by Great Lakes during the storage injection cycle from the existing interconnection of Michigan Wisconsin and Great Lakes facilities near Farwell, Michigan to the proposed points of interconnection in southeastern Michigan in the vicinity of the three new storage fields. The gas will then be transported by Michigan Wisconsin through its proposed transmission facilities to each new storage field. In the winter withdrawal period, gas will be delivered by Michigan Wisconsin from the new storage fields to Great Lakes at the proposed delivery points in exchange for an equal volume of gas to be delivered by Great Lakes to Michigan Wisconsin at the existing delivery point under the exchange agreement between Michigan Wisconsin and Great Lakes at Crystal Falls in the Upper Peninsula of Michigan as necessary to meet system winter requirements.

Applicant estimates the cost of facilities proposed herein is $70,016,000 which Applicant states will be financed initially with funds generated internally, together with borrowings from banks under short-term lines of credit. Applicant states that any bank borrowings will be refinanced with permanent debt and equity funds as market conditions permit.

Applicant states it is not herein proposing to increase annual or peak day sales above the levels for which authorization is requested in pending Docket No. CP74-157.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16627 Filed 7-19-74;8:45 am]

[Docket No. RP74-97]

MONTANA-DAKOTA UTILITIES CO.

Order Accepting for Filing

JULY 15, 1974.

On May 16, 1974, Montana-Dakota Utilities Company (MDU) tendered for filing proposed changes to its FPC Gas Tariff, Original Volume No. 4,[1] which would increase its revenues from jurisdictional sales and service by $159,045 annually based on sales for the 12 months ended December 31, 1973, as adjusted. MDU also proposes to modify its I-1 rate schedule by providing that when a cutback in service has been ordered by MDU pursuant to the provision of this rate schedule, volumes taken in excess of the service limitation set by MDU shall be billed at MDU's firm G-1 rate. Finally, MDU proposes to incorporate a purchase gas adjustment (PGA) clause into its tariff. MDU requests July 16, 1974, as the effective date of its filing.

The filing was noticed on June 12, 1974, but no comments or protests were received.

Our review of MDU's proposed PGA clause indicates that it is inconsistent with § 154.38(d)(4) of the regulations in that it contains a base average cost of purchased gas of 24.35¢ per Mcf calculated only on the basis of producer purchases in Wyoming and excludes producer purchases in Montana and North Dakota. The Regulations provide that the base cost of purchased gas be based on systemwide producer purchases. Moreover, the clause contains a provision in § 18.2(c) that rate adjustments will be made under the clause only when the proposed rate after adjustment reflects an average cost of purchased gas of at least 24.35¢ per Mcf. This provision is inconsistent with the Regulations since both upward and downward adjustments are to be filed under PGA clauses. Accordingly, we shall accept MDU's proposed PGA clause upon condition that within 30 days of the date of issuance of this order MDU file a revised PGA clause which includes: (1) a systemwide average base cost of purchased gas of 24.50¢ per Mcf [2] and which reflects this average base cost of purchased gas on a revised Sheet No. 3A; and (2) which modifies Section 18.2(c) of MDU's tariff to eliminate the provision that no adjustment shall be permitted unless the average base cost of purchased gas is at least 24.35¢ per Mcf.

Our review of MDU's proposed rates and charges indicates that they are not excessive and have been fully justified by cost support. Moreover, we find that MDU's proposed change in its I-1 Rate Schedule is reasonable and appropriate.[3] Accordingly, we shall accept for filing MDU's filing and permit it to become effective July 15, 1974, as proposed without suspension but subject to the conditions set forth above.

The Commission finds:

It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that MDU's filing be accepted for filing and made effective, without suspension as hereinafter ordered and conditioned.

The Commission orders:

(A) MDU's filing is accepted for filing to become effective July 15, 1974, without suspension subject to the condition set forth in Ordering Paragraph (B) below.

(B) Within 30 days of the date of issuance of this order, MDU shall file a revised PGA clause which reflects a systemwide average base cost of purchased gas of 24.50¢ per Mcf and which reflects this average base cost of purchased gas on a revised Sheet No. 3A; and which modifies § 18.2(c) of MDU's tariff to eliminate the provision that no adjustment shall be permitted unless the average base cost of purchased gas is at least 24.35¢ per Mcf.

(C) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-16628 Filed 7-19-74;8:45 am]

[Docket No. CP74-187]

MONTANA POWER CO.

Order Amending Order

JULY 12, 1974.

On January 15, 1974, The Montana Power Company (Applicant) filed in Docket No. CP74-187 an application, as supplemented on March 20, 1974, and April 15, 1974, pursuant to section 3 of the Natural Gas Act for authorization to continue to import natural gas from Canada upon the expiration of Applicant's previous import authorization on May 14, 1974, for a term ending December 31, 1992. After due notice by publication in the FEDERAL REGISTER on February 5, 1974 (39 FR 4613) no petition to intervene, notice of intervention or protest to the granting of the application was filed. By order issued May 9, 1974, in the subject docket, Applicant was granted authorization to import the subject gas for up to sixty days from May 15, 1974, at a superceding price of 62 cents per Mcf.

In Docket No. G-2805 (14 FPC 227 and 242), Applicant was authorized to import natural gas from Canada at a point on the international boundary between the United States and Canada near Whitlash, Montana, for a period expiring May 14, 1974. Applicant was authorized to import volumes of gas not to exceed 97,759 Mcf in any one day nor more than 19,551,800 Mcf in any consecutive 12 month period during the term of the authorization. Applicant seeks authorization to continue to import gas but at a new purchase price of 62 cents per Mcf, in contrast to 32.75 cents per Mcf for the previous importation.

The gas to be imported would be produced or purchased by Applicant's wholly-owned subsidiary, Canadian-Montana Gas Company Limited (CM Gas) from nine fields in the southeastern portion of the Province of Alberta. Applicant submits that there are 282,277,000 Mcf of marketable proven natural gas reserves in said fields as of June 30, 1973. Applicant would also seek additional reserve dedications that might become available within an economic distance of its gathering system. CM Gas will gather, process and sell the gas to Canadian-Montana Pipe Line Company (CM Pipe Line) for transportation to the border and delivery to Applicant.

By contract dated January 1, 1974, as amended, Applicant has agreed with CM Pipe Line to purchase this gas at 62 cents per Mcf subject to Btu adjustment. On May 10, 1974, Applicant advised the Commission that the National Energy Board of Canada (NEB) authorized CM Pipe Line to continue to export natural gas from Canada and deliver it to Applicant for a one year period from May 14, 1974. This was an interim action and CM Pipe Line has still pending before the NEB an application to export gas to Applicant for a term ending December 31, 1992. In approving the exportation for a year at 62 cents per Mcf, the NEB cautioned that, upon completion of their review study of the border price of Canadian natural gas, this price may be subject to further revision.

In view of the increased price requested herein and the uncertainty of future Canadian export authorization at this price, we believe that an evidentiary record should be established at a formal hearing in order to resolve whether the proposed importation is consistent with the public interest. In this regard, the hearing, *inter alia*, should focus on the feasibility of Applicant curtailing or reducing natural gas imported from Alberta, the amount of Applicant's and its customers' dependence placed on imported gas, the desirability of allocating any border price increase to specific classes of Applicant's customers (incremental pricing), and the availability of alternative fuels to Applicant's large commercial and industrial customers and the time and cost of conversion to such alternative fuels. In the meantime, we believe that while the application is pending, the *status quo* should be maintained on Applicant's system, and accordingly, our order of May

[1] Original Sheet Nos. 3A, 16B, 16C and 16D; First Revised Sheet Nos. 5C, 5D and 16A; and Second Revised Sheet Nos. 5, 5A, and 5B, to its FPC Gas Tariff, Original Volume No. 4. MDU also filed a new Title Page which merely changes the name of the person responsible for its FPC Gas Tariff.

[2] See Schedule N-5A in MDU's filing.

[3] Acceptance and approval of MDU's proposed rates does not necessarily constitute approval of the rate of return shown in MDU's filing.

9, 1974, will be amended to allow Applicant to continue to import this gas for the period ending May 10, 1975, or until further order of the Commission subsequent to the conclusion of the hereinafter ordered hearing, whichever is earlier.

The Commission finds:

(1) The continued importation of natural gas by Applicant from Canada as hereinabove described, and for the period therein specified will not be inconsistent with the public interest within the meaning of Section 3 of the Natural Gas Act, and therefore, the order issued in the subject docket should be amended as hereinafter ordered.

(2) It is necessary and appropriate that the proceeding in Docket No. CP74–187 be set for formal public hearing.

The Commission orders:

(A) The order issued in Docket No. CP74–187, on May 9, 1974, is amended by authorizing the continued importation of natural gas into the United States from Canada by Applicant for a period ending May 10, 1975, or until further order of the Commission subsequent to the conclusion of the hearing set herein, whichever is earlier as hereinbefore described, and as more fully described in the application, as supplemented, in this proceeding. In all other respects said order shall remain in full force and effect.

(B) A formal hearing shall be convened in the proceeding in Docket No. CP74–187 in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on August 21, 1974, at 10 a.m. (EDT). The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(C) The direct case of Montana Power Company as to all issues raised by its filing in Docket No. CP74–187 as well as all issues referred to in this order shall be filed and served on all parties of record including the Commission staff on or before August 8, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–16629 Filed 7–19–74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs., Temporary Reg. F–225]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas and electric rate increase proceeding.

2. *Effective date.* This regulation is effective July 12, 1974.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Arkansas Public Service Commission in a rate proceeding involving gas and electric services supplied by the Arkansas-Missouri Power Company (Docket No. U–2538).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON, *Administrator of General Services.*

JULY 12, 1974.

[FR Doc.74–16665 Filed 7–19–74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–74–39]

ASSOCIATED BRICK MASON CONTRACTORS OF GREATER NEW YORK, INC.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Associated Brick Mason Contractors of Greater New York, Inc., 455 Northern Boulevard, Great Neck, New York 11021, has made application pursuant to section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1594; 29 U.S.C. 655) and 29 CFR 1905.10 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.552(b)(6) concerning car arresting devices on material hoists.

The addresses of the places of employment that will be affected by the application are as follows:

A-One Bricklaying Company, Inc.
1615 Northern Boulevard
Manhasset, New York 11030

AFCO Construction Company, Inc.
3520 Avenue D
Brooklyn, New York 11203

A & E Masonry Corporation
60 West 42nd Street
New York, New York

Robert Auletta, Inc.
337 Kimball Avenue
Yonkers, New York 10704

Bafill Construction Corporation
51 Charles Street
Mineola, New York 11501

John Barba Sons, Inc.
650 Palisade Avenue
Englewood Cliffs, New Jersey 07632

Bartley Brothers Construction Corporation
75 Plandome Road
Manhasset, New York 11030

Bernessor Masonry Corporation
63 Third Avenue
Bayshore, New York 11706

Brick Tito Contracting Company, Inc.
1414 Utica Avenue
Brooklyn, New York 11203

Bri-Den Construction Company, Inc.
369 Broadway
Bethpage, New York 11714

Cadin Contracting Corporation
47 Hempstead Turnpike
Farmingdale, New York 11735

Cadin-Koehler, Construction (Joint Venture)
103 Allen Boulevard
Farmingdale, New York 11735

Castagna & Son, Inc.
2110 Northern Boulevard
Manhasset, New York 11030

Cerucci & Verri, Inc.
41 Icelin Street
Yonkers, New York 10701

C.N.J. Construction Corporation
2859 Long Beach Road
Oceanside, New York 11572

Cor-cer Construction Company, Inc.
14 Larkspur Lane
Yonkers, New York 10701

D'Adderio Construction Company, Inc.
2012 Williambridge Road
Bronx, New York 10470

D. Foley Masonry Corporation
985 West End Avenue
New York, New York 10024

Donald Mason Construction Corporation
453 Doughty Boulevard
Inwood, New York 11696

Dovin Construction Company, Inc.
1913 Deer Park Avenue
Deer Park, New York 11729

Edward F. Hickey, Inc.
221 East Hartsdale Avenue
Hartsdale, New York 10530

Ital Construction Corporation
114-28 149th Avenue
South Ozone Park, New York 11420

Jondan Brick Masons, Inc.
1144 Walt Whitman Road
Melville, New York 11746

Kayfield Construction Corporation
107 Northern Boulevard
Great Neck, New York 11022

Kelly Masonry Corporation
1615 Northern Boulevard
Manhasset, New York 11030

F. W. Koehler & Sons, Inc.
103 Allen Boulevard
Farmingdale, New York 11735

Krugman & Fox Construction Corporation
140 Marine Street
Farmingdale, New York 11735

La Fata Construction Corporation
34-47 Lawrence Street
Flushing, New York 11354

Francis J. La Sala Associates Inc.
640 Palmer Road
Yonkers, New York 10701

La Gracca Bricklaying Corporation
149-34 114th Place
South Ozone Park, New York 11420

Langer & Langer, Inc.
801 McLean Avenue
Yonkers, New York 10704

Langer Masonry, Inc.
801 McLean Avenue
Yonkers, New York 10704

La Sala Contracting Company, Inc.
733 Yonkers Avenue
Yonkers, New York 10704

La Sala & La Sala, Inc.
60 West Broad Street
Mount Vernon, New York 10552

Leonard Masonry, Inc.
Post Office Box 1001
150 Broad Hollow Road
Melville, New York 11746

Liberty Structural, Inc.
RFD No. 6 Lake Drive
Mahopac, New York 10541

LMC Building Corporation
60 West Broad Street
Mount Vernon, New York 10552

B. A. Lybeck, Inc.
103 Park Avenue
New York, New York 10017

Masonry Associates, Inc.
92-B Dale Street
West Babylon, New York 11702

Mercury Masonry Corporation
733 Yonkers Avenue
Yonkers, New York 10704

Mid-Isle Brick Masons, Inc.
Box 338 Townline Road
East Northport, New York 11731

John Milnes Company, Inc.
2081 Richmond Terrace
Staten Island, New York 10302

Mopal Contractors Corporation
815 McLean Avenue
Yonkers, New York 10704

T. Moriarty & Son
501 Coney Island Avenue
Brooklyn, New York 11218

M.W.R. Construction Corporation
371 North Avenue
New Rochelle, New York 10801

McCusker & Reilly, Inc.
7 Granite Avenue
Staten Island, New York 10302

J. Harry McNally Mason Company
1560 Broadway
New York, New York 11036

McNally & McNally, Inc.
165 West 46th Street
New York, New York 10036

N. A. Construction Company, Inc.
98 Cuttermill Road
Great Neck, New York 11021

Nome Construction Company, Inc.
15 Canterbury Road, Box 722
Great Neck, New York 11021

John S. Parnon, Inc.
20 Railroad Street
Huntington Station, New York 11746

Anthony Perri, Inc.
3520 Avenue D
Brooklyn, New York 11203

Ralph Perri, Inc.
3520 Avenue D
Brooklyn, New York 11203

Poly Construction Company
15 Canterbury Road, Box 722
Great Neck, New York 11021

Precision Mason Contractors Corporation
453 Doughty Boulevard
Inwood, New York 11696

Quality Mason Corporation
463 Doughty Boulevard
Inwood, New York 11696

Ray Contracting Company, Inc.
40 Oak Drive
Syosset, New York 11791

Revere Construction Corporation
107 Northern Boulevard
Great Neck, New York 11022

Isadore Rosen & Sons, Inc.
580 Midland Avenue
Yonkers, New York 10704

Sadore Masonry Corporation
580 Midland Avenue
Yonkers, New York 10704

S.A.F. La Sala Corporation
68 East Sanford Boulevard
Mount Vernon, New York 10550

Sal Vio Masons, Inc.
4422 Bronx Boulevard
Bronx, New York 10470

B. Silverman Masonry Corporation
175 Fifth Avenue, Suite 1101
New York, New York 10010

Soundwall Construction Corporation
1414 Utica Avenue
Brooklyn, New York 11203

South Shore Brick Masons, Inc.
80 Redington Street
Bayshore, New York 11706

Star Mason Company, Inc.
4603 Thirteenth Avenue
Brooklyn, New York 11219

Studio Construction Corporation
76 Ellenton Avenue
New Rochelle, New York 10804

Tomasello Associates Company, Inc.
225 Nassau Boulevard
Garden City South, New York 11530

Ultra Brick Mason Construction Corporation
39 Fern Place
Inwood, New York 11696

V. P. Masons, Inc.
876 McLean Avenue
Yonkers, New York 10704

Anthony Zotollo, Inc.
117-75 126th Street
South Ozone Park, New York 11420

D & F Mason, Inc.
4422 Bronx Boulevard
Bronx, New York 10470

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is presently unable to comply with the requirements of 29 CFR 1926.552(b)(6) which requires that car arresting devices shall be installed on material hoists to function in case of rope failure, because the companies which supply hoisting towers to the applicant can not immediately convert its towers to accept car arresting devices.

The applicant further contends that it will take all possible steps to insure the safety of its employees until the requirements of the standard can be met. The applicant states it expects to be in compliance with the standard by May 1, 1975.

The applicant alleges that approximately 90 percent of the material hoisting equipment in use in New York City is the light type 3000A tower. These towers are made of .112 inch wall steel tubing. The applicant alleges that this tubing is too thin to resist the pressure of the clamping action of a car arresting device. The applicant alleges that there is an insufficient quantity of towers with thick walled tubing to replace the thin walled towers. The applicant contends, however, that the existing towers can be converted to accommodate car arresting devices by substituting heavy wall guide rails for the thin wall rails. The applicant states that the process, which includes a careful burning process to remove the old rail, the redesign of the new connection, sanding, welding of the new rail, and painting, is very time consuming. The applicant maintains that, in order not to create an undue hardship on employers and employees, some material hoisting towers without car arresting devices will have to be used until conversion to the thick walled towers is completed.

In support of the applicant's allegations concerning the need to convert to thick walled guide railings and the amount of time required to make the conversion, the applicant has submitted, with his application, letters from a manufacturer and three suppliers of hoist towers.

The applicant contends that during the time that will be necessary to meet the requirements of the standard, it will be providing a safe workplace for the employees. The applicant states that its members use ¾ inch cable of improved plow steel which has a catalog breaking strength of 23.8 tons, exceeding requirements for Type I, Class 2, Construction 5, stated in Federal Specifications, Wire Rope and Strand, FR-W-410C. The applicant alleges that it could not find a single case on record of a material hoist cable failure in New York City. The applicant further alleges that the high quality of the material hoisting equipment manufactured and supplied to the applicant's members, and the stringent requirements and inspections by both insurance carriers and the New York State Labor Department combine to provide a safe workplace for employees.

The applicant has submitted, with his application, letters from a manufacturer, an insurance broker, and three suppliers supporting the above statement concerning the safety of the ¾ inch cable used in hoisting operations.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 1726 M Street, NW., Room 210, Washington, D.C. 20210, and at the following Regional and Area Offices:

U. S. Department of Labor
Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), New York, New York 10036.

U.S. Department of Labor
Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

U.S. Department of Labor
Occupational Safety and Health Administration, 370 Old Country Road, Garden City, Long Island, New York 11530.

U.S. Department of Labor
Occupational Safety and Health Administration, Federal Office Building, 970 Broad Street, Room 1435C, Newark, New Jersey 07102.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views,

and arguments relating to the pertinent application no later than August 12, 1974. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than August 12, 1974, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim order.* It appears from the application for a variance and interim order that an interim order is necessary to prevent undue hardship on employers and employees pending compliance with 29 CFR 1926.552(b)(6). Therefore it is ordered, pursuant to authority in section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.10(c) that Associated Brick Mason Contractors of Greater New York, Inc., be, and it is hereby, authorized to continue the use of material hoists without car arresting devices provided that an effort is made to convert, as expeditiously as possible, from thin walled guide rails on hoist towers to thick walled rails which can accommodate arresting devices and provided that the applicant have a competent person as defined in 29 CFR 1926.32 (f) make the following check at the start of work each day and mid-work day:

1. Examine the hoist cable attachment to the platform frame or other lift attachment where a conveyance is used to determine that deficiencies have not developed in the attachment components.

2. A visual observation of the hoist rope to determine that it has not developed any deficiencies which necessitate rope replacement.

Associated Brick Mason Contractors of Greater New York, Inc. shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of July 12, 1974, and shall remain in effect until May 1, 1975.

Signed at Washington, D.C., this 8th day of July 1974.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.74-16639 Filed 7-19-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting

Notice is hereby given of a meeting to be held by the National Advisory Committee on Occupational Safety and Health established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 556).

The meeting will begin at 9 a.m. on August 8 and 9 in the Island Room of the Edgewater Inn, Pier 67, Seattle, Washington.

The agenda will include presentations and discussions on the standards development process, problems related to statistics, discussion of the House of Representatives action regarding exemption of employers from OSHA inspections who have 25 or fewer employees and a discussion of OSHA administration as proposed by the National Federal of Independent Business.

Any written data or views concerning the subjects to be considered which are received by the Committee's Executive Secretary by August 2, 1974, together with 25 duplicate copies, will be included in the minutes of the meeting. Those persons desiring to make presentations at the meeting must also notify the Committee's Executive Secretary by August 2, 1974, of their intention to appear, stating the amount of time requested and the capacity in which they will appear as well as a brief outline of the content of their presentation.

Communications to the Executive Secretary should be addressed as follows:

Ms. J. Goodell, Acting Executive Secretary
National Advisory Committee on Occupational Safety and Health
1726 M Street, N.W., Room 200
U.S. Department of Labor
Washington, D.C. 20210

Signed at Washington, D.C., this 16th day of July 1974.

J. GOODELL,
Acting Executive Secretary.

[FR Doc.74-16640 Filed 7-18-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JULY 16, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 1, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-2368 (Sub-No. E20), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible animal oils, greases, lard, and tallow*, in bulk, in tank vehicles, (2) *edible animal oils*, in bulk, in tank vehicles, from points in Virginia on and east of Interstate Highway 95 to points in Tennessee (except Memphis). The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC-2368 (Sub-No. E21), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible animal oils, greases, lard, and tallow*, in bulk, in tank vehicles, (2) *edible animal oils*, in bulk, in tank vehicles, from Cronet, Va., to points in New York, New Jersey, on and north of a line beginning at Camden and extending along New Jersey Highway 42 to its junction with the Atlantic City Expressway, thence along the Atlantic City Expressway to Atlantic City. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC-2368 (Sub-No. E22), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from points in King George County, Va., to points in Florida, Louisiana, and Alabama. The purpose of this filing is to eliminate the gateway of Portsmouth, Va.

No. MC-2368 (Sub-No. E23), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from points in King George County, Va., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC-2368 (Sub-No. E24), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from Smithfield, Va., to points in North Carolina, South Carolina, New Jersey, New York, Delaware, Georgia, Maryland, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Suffolk, Va.

No. MC-2368 (Sub-No. E25), filed May 29, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495,

Richmond, Va. 23204. Applicant's representative: Ward W. Johnson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils*, in bulk, in tank vehicles, from Crozet, Va., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Portsmouth, Va.

No. MC–5888 (Sub-No. E1), filed May 15, 1974. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, farm and dairy machinery, supplies, equipment, and parts, and building materials and equipment*, between points in Adams, Fremont, Montgomery, Page, Ringgold, and Taylor Counties, Iowa, Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Miami, Nemaha, Shawnee, and Wyandotte Counties, Kans., Andrew, Atchison, Buchanan, Caldwell, Carroll, Clay, Clinton, Cass, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Lafayette, Livingston, Mercer, Nodaway, Platte, Ray, and Worth Counties, Mo., and Johnson, Nemaha, Pawnee, and Richardson Counties, Nebr., on the one hand, and, on the other, points in Lake, Cook, McHenry, De Kalb, Kane, Du Page, Kendall, Grundy, Will, and Kankakee Counties, Ill., and that part of Illinois, on and north of U.S. Highway 30 (except points in Daviess County) [Joliet and Rock Falls, Ill.]*. (2) *General commodities* (except those of unusual value, classes A and B explosives, household goods and defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Fairbault and Minneapolis, Minn., to Decatur, La Salle, Ottawa, and Springfield, Ill., and Terre Haute, Ind. [Aurora, Ill.]*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC–11207 (Sub-No. E8), filed May 13, 1974. Applicant: DEATON, INC., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: C. N. Knox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from points in North Carolina and South Carolina to points in Oklahoma and Arkansas (except Clay and Mississippi Counties). The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC–14786 (Sub-No. E1), filed May 15, 1974. Applicant: GREYHOUND VAN LINES, INC., 13 East Lake Street, Northlake, Ill. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission between points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateway of points in North Dakota, South Dakota, Wyoming, Colorado, Oklahoma, Texas, and New Mexico.

No. MC–17868 (Sub-No. E16), filed May 31, 1974. Applicant: H. E. BRINKERHOFF & SONS TRANSPORTATION CO., 1001 South 14th Street, Harrisburg, Pa. 17104. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Frederick County, Va. The purpose of this filing is to eliminate the gateway of Wilmington, Del., and Harrisburg, Pa.

No. MC–17868 (Sub-No. E20), filed May 31, 1974. Applicant: H. E. BRINKERHOFF & SONS TRANSPORTATION CO., 1001 South 14th Street, Harrisburg, Pa. 17104. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in West Virginia, on the one hand, and, on the other, points in Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine. The purpose of this filing is to eliminate the gateway of Wilmington, Del., and Harrisburg, Pa.

No. MC–17868 (Sub-No. E21), filed May 31, 1974. Applicant: H. E. BRINKERHOFF & SONS TRANSPORTATION CO., 1001 South 14th Street, Harrisburg, Pa. 17104. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Alabama, on the one hand, and, on the other, points in Maryland, New Jersey, New York, Delaware, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Harrisburg, Pa.

No. MC–37473 (Sub-No. E1), filed May 21, 1974. Applicant: DETROIT-PITTSBURGH MOTOR FREIGHT, INC., P.O. Box 447, Cleveland, Ohio 44125. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles thereof*, other than machinery, from points in that part of Ohio and Indiana on and north of U.S. Highway 40, and points in that part of Michigan on and south of a line beginning at Muskegon, thence along Michigan Highway 20 to junction Michigan Highway 25, thence along Michigan Highway 25 to Port Huron, to points in New York on and west of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 11 to junction New York Highway 57, thence along New York Highway 57 to Oswego. The purpose of this filing is to eliminate the gateway of Canton, Ohio.

No. MC–42011 (Sub-No. E1), filed May 26, 1974. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Proposal 1: *Heavy machinery and parts thereof*, (1) from Chicago, Ill., and Milwaukee, Wis., to points in Texas on and north of U.S. Highway 80, points in Arkansas on and west of U.S. Highway 65, beginning at the Arkansas-Missouri State line, thence along U.S. Highway 65 to its junction with Arkansas Highway 7 at Harrison, thence along Arkansas Highway 7 to the Arkansas-Louisiana State line, points in Kansas on and south of U.S. Highway 54 beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to its junction with U.S. Highway 81 at Wichita, thence along U.S. Highway 81 northerly to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96 near Great Bend, thence along Kansas Highway 96 to the Kansas-Colorado State line, and points in Missouri on and south and west of U.S. Highway 54, beginning at the Missouri-Kansas State line, thence along U.S. Highway 54 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to the Missouri-Arkansas State line; (2) from Indianapolis, Ind., to points in Arkansas, on and west of U.S. Highway 71 beginning at the Arkansas-Missouri State line, thence along U.S. Highway 71 to its junction with Arkansas Highway 16 at Fayetteville, thence along Arkansas Highway 16 to its junction with Arkansas Highway 23, thence along Arkansas Highway 23 to its junction with Arkansas Highway 10.

Thence along Arkansas Highway 10 to its junction with Arkansas Highway 27, thence along Arkansas Highway 27 to its junction with Arkansas Highway 4, thence along Arkansas Highway 4 to its junction with Arkansas Highway 29 to the Arkansas-Louisiana State line, points in Kansas on and south of Kansas Highway 68, beginning at the Kansas-Missouri State line, thence along Kansas Highway 68 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line, points in Texas on and

north of U.S. Highway 80, and, points in Missouri on and west of Missouri Highway 59, beginning at the Missouri-Arkansas State line, thence along Missouri Highway 59 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with alternate U.S. Highway 71 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Missouri-Kansas State line; north of U.S. Highway 80, and, points in Arkansas on and west of U.S. Highway 71 beginning at the Arkansas-Missouri State line, thence along U.S. Highway 71 to its junction with Arkansas Highway 16, thence along Arkansas Highway 16 to Arkansas Highway 23, thence south on Arkansas Highway 23 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to its junction with Arkansas Highway 27.

Thence along Arkansas Highway 27 to its junction with Arkansas Highway 4, thence along Arkansas Highway 4 to its junction with Arkansas Highway 29, thence along Arkansas Highway 29 to the Arkansas-Louisiana State line, points in Texas on and north of U.S. Highway 80, points in Kansas on and south of Kansas Highway 68, beginning at the Kansas-Missouri State line, thence along Kansas Highway 68 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line, and points in Missouri on and west of Missouri Highway 59, beginning at the Missouri-Arkansas State line, thence along Missouri Highway 59 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to alternate U.S. Highway 71, thence along alternate U.S. Highway 71 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Missouri-Kansas State line.

Proposal 2: *Machinery, materials, equipment, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in main lines), between points in Arkansas on and north of U.S. Highway 70, beginning at the Arkansas-Oklahoma State line, thence along U.S. Highway 70 east to its junction with U.S. Highway 270 at Hot Springs, thence along U.S. Highway 270 to its junction with U.S. Highway 79, thence along U.S. Highway 79 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Tennessee State line, and points in Texas on and west of U.S. Highway 271 beginning at the Texas-Oklahoma State line, thence along U.S. Highway 271 to its junction with Texas Highway 49, thence along Texas Highway 49 to its junction with U.S. Highway 259, thence along U.S. Highway 259 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line.

Proposal 3: *Farm machinery* when transported as heavy machinery, from Kansas City, Mo., and Kansas City, Kans., to points in Texas north of U.S. Highway 80. The purpose of the filing of proposals (1), (2), and (3) is to eliminate the gateway points in Oklahoma.

No. MC-42011 (Sub-No. E2), filed May 26, 1974. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Proposal 1: *Farm machinery when transported as heavy machinery*, from Kansas City, Mo., to points in Kansas, on and south of U.S. Highway 60, beginning at the Kansas-Missouri State line, thence along U.S. Highway 66 to its junction with U.S. Highway 166, at Baxter Springs, thence west on U.S. Highway 166 to its junction with Interstate Highway 35, thence north on Interstate Highway 35 to its junction with Kansas Highway 160, thence west on Kansas Highway 160 to the Kansas-Colorado State line.

Proposal 2: *Heavy machinery and parts thereof*, when transported as, *Machinery, materials, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe line, including the stringing and picking up thereof (except the stringing and picking up of pipe in main lines), (1) between points in Kansas on and south of U.S. Highway 160, beginning at the Kansas-Missouri State line.

Thence along U.S. Highway 160 west to its junction with U.S. Highway 169, thence north on U.S. Highway 169 to its junction with U.S. Highway 54 at Iola, thence west on U.S. Highway 54 to its junction with Interstate Highway 35 at Wichita, thence north on Interstate Highway 35 to its junction with U.S. Highway 56 at McPherson, thence west on U.S. Highway 56 to its junction with Kansas Highway 96 near Great Bend, thence along Kansas Highway 96 west to the Kansas-Colorado State line, and points in Missouri on, south, and east of U.S. Highway 66, beginning at the Missouri-Illinois State line, thence along U.S. Highway 66 to its junction with Missouri State Highway 68, thence along Missouri Highway 68 south to its junction with Missouri Highway 32, thence along Missouri Highway 32 southwest to its junction with U.S. Highway 63, thence along U.S. Highway 63 south to its junction with Missouri Highway 17, thence along Missouri Highway 17 south to the Missouri-Arkansas State line, (2) between points in Arkansas on and west of U.S. Highway 71, beginning at the Arkansas-Missouri State line, thence along U.S. Highway 71 to its junction with Arkansas Highway 16, thence along Arkansas Highway 16 south to its junction with Arkansas Highway 23, thence along Arkansas Highway 23 south to its junction with U.S. Highway 71, thence along U.S. Highway 71 south to its junction with U.S. Highway 70 at De Queen, thence along U.S. Highway 70 west to the Arkansas-Oklahoma State line, and points in Missouri on and bounded by U.S. Highway 54, beginning at the Missouri-Illinois State line, thence along U.S. Highway 54 west and south to its junction with U.S. Highway 63 at Jefferson City, thence south along U.S. Highway 63 to its junction with U.S. Highway 66 at St. James, thence east on U.S. Highway 66 to the Missouri-Illinois State line. The purpose of the filing of proposals (1) and (2) is to eliminate the gateway points in Oklahoma.

Proposal 3: *Brick, tile, and clay pipe*, in truckload lots when transported as, *machinery, materials, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in main lines), from Boone, Callaway, Audrain, and Montgomery Counties, Mo., to points on and south of U.S. Highway 80 in Texas. The purpose of this filing is to eliminate the gateway points in Texas on and north of U.S. Highway 80.

Proposal 4: *Composition roofing and materials* used in the installation thereof, when transported as, *building material*, from points in Arkansas on and west of Interstate Highway 40, beginning at the Arkansas-Oklahoma State line, thence along Interstate Highway 40 east to its junction with U.S. Highway 71, thence U.S. Highway 71 south to its junction with U.S. Highway 270, thence along U.S. Highway 270 to the Arkansas-Oklahoma State line, to points in Kansas on and west of U.S. Highway 281 beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 281 to its junction with Kansas Highway 96, thence west on Kansas Highway 96 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC-42011 (Sub-No. E3), filed May 26, 1974. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. Applicant's representative: James B. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Proposal 1: *Composition roofing and materials* used in the installation thereof, when transported as, *building material*, (1) from points in Oklahoma, bounded by U.S. Highway 81, beginning at the Oklahoma-Texas State line, thence U.S. Highway 81 north to junction U.S. Highway 66, thence along U.S. Highway 66 east to Oklahoma Highway 99, thence along Oklahoma Highway 99 south to junction U.S. Highway 70, thence along U.S. Highway 70 east to U.S. Highway 271, thence along U.S. Highway 271 south to Oklahoma-Texas State line to points in Kansas on and north and west of U.S. Highway 54 beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to its junction with Interstate Highway 35, thence south on Interstate Highway 35 to the Kansas-Oklahoma State line; (2) from Tulsa and Muskogee, Okla., to points in Kansas on and west of U.S. Highway 283. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

Proposal 2: *Heavy machinery and parts thereof*, when transported as, *machinery, materials, equipment, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing and picking up of pipe in main lines), (1) from Chicago, Ill., Milwaukee, Wis., and Evansville and Indianapolis, Ind., to points in Texas on and south of U.S. Highway 80; (2) between points in Texas and points in Missouri on and south of U.S. Highway 54 and on and north of U.S. Highway 60, beginning at the Missouri-Oklahoma State line, thence along U.S. Highway 60 to its junction with Missouri Highway 34, thence along Missouri Highway 34 to its junction with Missouri Highway 146, and thence along Missouri Highway 146 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway points in Oklahoma.

No. MC-46219 (Sub-No. E40), filed May 14, 1974. Applicant: STERNBERGER MOTOR CORPORATION, 45-55 Pearson Street, Long Island City, N.Y. 11101. Applicant's representative: James E. Wilson, 13th and Pennsylvania Avenue NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Vermont to points in Pennsylvania (except points in Erie, Crawford, Warren, Forest, Elk, McKean, Potter, Tioga, Cameron, Clinton, Lycoming, Venango, Bradford, Sullivan, Columbia, Montour, Luzerne, Wyoming, Susquehanna, Lackawanna, Wayne, Pike, Monroe, and Carbon Counties), and points in New Jersey (except points in Sussex and Warren Counties), and points in Maryland, Delaware, Ohio, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Philadelphia and Warren, Pa., and New York, N.Y.

No. MC-57880 (Sub-No. E1), filed May 17, 1974. Applicant: ASHTON TRUCKING CO., P.O. Box 472, Monte Vista, Colo. 81144. Applicant's representative: Jones, Meiklejohn, Kehl & Lyons, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' machinery*, the transportation of which, because of size or weight, requires special equipment, and *contractors' equipment*, when its transportation is incidental to the transportation of machinery which, by reason of size or weight, requires special equipment (except that said service may not be performed unless the special equipment is required only for loading performed by the consignor and for unloading performed by the consignee), (1) from points in Colorado (except Monte Vista, points within 35 miles of Monte Vista, points in Saguache County, and points in those portions of Mineral and Hinsdale Counties, east of the Continental Divide), to points in New Mexico (except points in that part of New Mexico on and west of a line beginning at the Colorado-New Mexico State line, thence along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Arizona-New Mexico State line, and except points in that part of New Mexico on and east of a line beginning at the Colorado-New Mexico State line, thence along Interstate Highway 25 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Texas-New Mexico State line); (2) from points in Colorado (except (a) Monte Vista and points within 35 miles thereof, points in Saguache County, and points in those parts of Mineral and Hinsdale Counties, east of the Continental Divide), (b) points in that part of Colorado on and west of a line beginning at the Wyoming-Colorado State line, thence along Colorado Highway 13 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line, and (c) points in that part of Colorado on and east of a line beginning at the Wyoming-Colorado State line, thence along U.S. Highway 287 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line, to points in New Mexico.

(3) (a) From Denver, Colo., to Santa Fe, Farmington, Gallup, Albuquerque, Las Vegas, Clovis, Roswell, Hobbs, Carlsbad, Las Cruces, Socorro, Lordsburg, Tucumcari, Los Alamos, and Alamogordo, N. Mex., (b) from Craig, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Hobbs, Las Cruces, Las Vegas, Los Alamos, Lordsburg, Raton, Roswell, Santa Fe, Socorro, Tucumcari, and Farmington, N. Mex., (c) from Fort Collins, Colo., to Alamogordo, Aubuquerque, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, Socorro, and Tucumcari, N. Mex., (d) from Greeley, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, Socorro, and Tucumcari, N. Mex., (e) from Sterling, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, Socorro, and Tucumcari, N. Mex., (f) from Boulder, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex.

(g) From Colorado Springs, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex., (h) from Limon, Colo., to Alamogordo, Albuquerque, Carlsbad, Farmington, Gallup, Hobbs, Las Cruces, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex., (i) from Burlington, Colo., to Alamogordo, Albuquerque, Carlsbad, Farmington, Gallup, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex., (j) from Pueblo, Colo., to Alamogordo, Albuquerque, Carlsbad, Farmington, Gallup, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex., (k) from La Junta, Colo., to Alamogordo, Albuquerque, Carlsbad, Farmington, Gallup, Hobbs, Cruces, Lordsburg, Los Alamos, Roswell, Santa Fe, and Socorro, N. Mex., (l) from Trinidad, Colo., to Alamogordo, Albuquerque, Carlsbad, Farmington, Gallup, Las Cruces, Lordsburg, and Socorro, N. Mex., (m) from Grand Junction, Colo., to Alamogordo, Albuquerque, Carlsbad, Clovis, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Raton, Roswell, Santa Fe, Socorro, and Tucumcari, N. Mex., (n) from Durango, Colo., to Alamogordo, Carlsbad, Clovis, Hobbs, Las Cruces, Las Vegas, Lordsburg, Los Alamos, Raton, Roswell, Santa Fe, and Tucumcari, N. Mex. The purpose of this filing is to eliminate the gateways of (1) Monte Vista, Colo., (2) points within 35 miles of Monte Vista, Colo., (3) points

in Saguache County, Colo., or (4) points in those parts of Mineral and Hinsdale Counties, Colo., east of the Continental Divide (exeept incorporated towns or cities).

No. MC–59393 (Sub-No. E1), filed May 14, 1974. Applicant: BESTWAY VAN LINES, INC., 401 Vine Street, North Little Rock, Ark. 72114. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, and *emigrant movables*, (1) between points in that part of Texas east of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 281 to junction Texas Highway 9, thence along Texas Highway 9 to Corpus Christi, on the one hand, and, on the other points in Kansas west of U.S. Highway 281; (2) between points in that part of Kansas east of and including Republic, Cloud, Ottawa, Saline, and McPherson Counties, and north of and including McPherson, Marion, Chase, Lyon, Coffey, Anderson, and Linn Counties, on the one hand, and, on the other, points in Cotton, Tillman, Harmon, Jackson, Comanche, Greer, Kiowa, Beckham, and Washita Counties, Okla. The purpose of this filing is to eliminate the gateway of Hobart, Okla.

No. MC–95540 (Sub-No. E248), filed April 23, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Baltimore and Aberdeen, Md., to points in Colorado on and south of a line beginning at the Colorado-Kansas State line and extending west along U.S. Highway 50, to Pueblo, thence along Interstate Highway 25 to Colorado Springs, thence along U.S. Highway 24 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with Colorado Highway 131, thence along Colorado Highway 131 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to Craig, thence along Colorado Highway 355 to the Colorado-Wyoming State line. The purpose of this filing is to eliminate the gateway of Pike or Spalding Counties, Ga.

No. MC–95540 (Sub-No. E616), filed May 8, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and edible meat by-products, dairy products, and edible articles distributed by meat packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles, equipped with mechanical refrigeration, from Orangeburg, S.C., to points in Kansas. RESTRICTION: The service authorized immediately above is subject to the conditions that such commodities as do not require refrigeration shall be transported only in mixed truckloads with commodities requiring refrigeration. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC–106435 (Sub-No. E1), filed May 24, 1974. Applicant: LEWIS TRUCK LINES, INC., Box 642, Lisbon, N. Dak. 58054. Applicant's representative: Michael E. Miller, 502 National Bank Building, Fargo, N. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fargo, N. Dak., and Moorhead, Minn., on the one hand, and, on the other, Minneapolis and St. Paul, Minn. The purpose of this filing is to eliminate the gateway of Rosholt, N. Dak.

No. MC–107496 (Sub-No. E26), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Sioux City, Iowa, to points in South Dakota, except points south of U.S. Highway 18 and east of U.S. Highway 37. The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal outlet of Koneb Pipeline Company at or near Le Mars, Iowa.

No. MC–107496 (Sub-No. E27), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid fertilizer ingredients*, in bulk, in tank vehicles, from the storage facilities of Allied Chemical Corporation at Dubuque, Iowa, to points in Missouri. The purpose of this filing is to eliminate the gateway of the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa.

No. MC–107496 (Sub-No. E56), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Kansas to points in North Dakota on and west of North Dakota Highway 8. The purpose of this filing is to eliminate the gateway of Sidney and North Platte, Nebr., and points in Pennington County, S. Dakota.

No. MC–107496 (Sub-No. E57), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, from Ft. Madison, Iowa, to points in California. The purpose of this filing is to eliminate the gateways of the plant site of Ashland Chemical Company at or near Mapleton, Ill., and Denver, Colo.

No. MC–107496 (Sub-No. E58), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Iowa (except points on and east of U.S. Highway 63 and on and north of Iowa Highway 3), to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Clear Lake, Corralville, Dubuque, and Milford, Iowa, and the Pipeline Terminal of Williams Brothers at or near Rochester, Minn.

No. MC–107496 (Sub-No. E59), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemical adhesives*, in bulk, in tank vehicles, from the plant site of H. B. Fuller Company, at Kansas City, Kans., to points in Minnesota (except points south of Minnesota Highway 60 and east of U.S. Highway 71). The purpose of this filing is to eliminate the gateway of Fremont, Nebr.

No. MC–107496 (Sub-No. E60), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Missouri on and east of U.S. Highway 63. The purpose of this filing is to eliminate the gateway of Ft. Madison, Iowa.

No. MC–107496 (Sub-No. E61), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*,

as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Nebraska (except points east of U.S. Highway 81 and north of Nebraska Highway 51), to points in Minnesota. The purpose of this filing is to eliminate the gateways of Yankton, S. Dak., Milford, Iowa, Omaha, Nebr., and Clear Lake, Iowa, and points within 10 miles thereof.

No. MC-107496 (Sub-No. E62), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Wyoming on and south of U.S. Highway 20 to points in Wisconsin. The purpose of this filing is to eliminate the gateways of points in Nebraska within the Yankton, S. Dak., commercial zone and the site of the Pipeline Terminal of Williams Brothers at or near Rochester, Minn.

No. MC-107496 (Sub-No. E63), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Wyoming to points in Kansas. The purpose of this filing is to eliminate the gateways of Sidney, Nebr., points in Kansas on and north of U.S. Highway 40, all refining and distributing points in Kansas, points in Laramie County, Wyo., and points in Kansas on and north of Kansas Highway 96 and on and west of U.S. Highway 283.

No. MC-107496 (Sub-No. E64), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the plant site of the Missouri Portland Cement Company at St. Louis, Mo., to points in Kentucky on and south of U.S. Highway 62. The purpose of this filing is to eliminate the gateway of Joppa, Ill., and points within five miles thereof.

No. MC-107496 (Sub-No. E65), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from the plant site of American Oil Company located at or near Whiting, Ind., to points in Wyoming. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and points within 10 miles thereof, and points in Nebraska west of U.S. Highway 83.

No. MC-107496 (Sub-No. E66), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from the plant site of American Oil Company located at or near Whiting, Ind., to points in South Dakota. The purpose of this filing is to eliminate the gateway of the terminal of Kaneb Pipe Line Company at or near Milford, Iowa.

No. MC-107496 (Sub-No. E67), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals), in bulk, in tank vehicles, from the plant site of American Oil Company located at or near Whiting, Ind., to points in Colorado. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and points within 10 miles thereof, points in Nebraska, points in Nebraska west of U.S. Highway 83.

No. MC-107496 (Sub-No. E68), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Kentland, Ind., to points in Minnesota. The purpose of this filing is to eliminate the gateway of the plant site of the Apple River Chemical Company at or near East Dubuque, Ill.

No. MC-107496 (Sub-No. E83), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, from St. Paul, Minn., to points in Illinois on and south of U.S. Highway 54. The purpose of this filing is to eliminate the gateways of Eau Claire, Wis., and points within 25 miles, the site of the Pipeline Terminal of Williams Brothers at or near Rochester, Minn., Ft. Madison, Iowa, and Alexandria, Mo.

No. MC-107496 (Sub-No. E84), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from points in Minnesota on and north of Minnesota Highway 19 to all points in Missouri. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC-107496 (Sub-No. E85), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals derived from coal tar*, in bulk, in tank vehicles, from Pueblo, Colo., to points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of the plant site of the Apple River Chemical Company at or near Niota, Ill.

No. MC-107496 (Sub-No. E86), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals derived from coal tar*, in bulk, in tank vehicles, from Pueblo, Colo., to points in Ohio. The purpose of this filing is to eliminate the gateway of the plant site of the Apple River Chemical Co., at or near Niota, Ill.

No. MC-107496 (Sub-No. E235), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer* solution, in bulk, from the plant site of the Apple River Chemical Company at or near Niota, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateway of the storage facilities of the Royster Company at or near St. Paul, Minn.

No. MC-110525 (Sub-No. E449), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in New York to points in that part of West Virginia on and west of U.S. Highway 219. The purpose of this filing is to eliminate the gateway of Morgantown, W. Va.

No. MC-111545 (Sub-No. E124), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of Georgia within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in that part of Missouri on and north of U.S. Highway 24, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateways of Ringgold, Ga., and Keokuk, Iowa.

No. MC-111545 (Sub-oN. E125), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of Missouri on and north of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 66 to Springfield, thence along U.S. Highway 65 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line, on the one hand, and, on the other points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to Urbana, thence along U.S. Highway 68 to the Ohio River, restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of Keokuk, Iowa.

No. MC-111545 (Sub-No. E126), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in Marion, Sequatchie, Hamilton, Bradley, and Polk Counties, Tenn., on the one hand, and, on the other, points in Indiana, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Ringgold, Ga.

No. MC-111545 (Sub-No. E127), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of Tennessee within 175 miles of Chattanooga, Tenn., and on, east, and south of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to Fayetteville, thence along U.S. Highway 64 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to McMinnville, thence along U.S. Highway 70S to junction Tennessee Highway 30, thence along Tennessee Highway 30 to Dayton, thence along U.S. Highway 27 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to junction Tennessee Highway 72, thence along Tennessee Highway 72 to junction U.S. Highway 29, thence along U.S. Highway 29 to the Tennessee-North Carolina State line, on the one hand, and, on the other, points in Michigan, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Ringgold, Ga.

No. MC-111545 (Sub-No. E128), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Alabama within 175 miles of Chattanooga, Tenn. (except points in that part of Alabama on, west, and north of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 231 to junction Alabama Highway 36, thence along Alabama Highway 36 to junction Alabama Highway 33, thence along Alabama Highway 33 to junction U.S. Alternate Highway 72, thence along U.S. Alternate Highway 72 to junction U.S. Highway 72, thence along U.S. Highway 72 to the Alabama-Mississippi State line), on the one hand, and, on the other, points in Michigan, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Piedmont, Ala.

No. MC-111545 (Sub-No. E129), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in that part of Kentucky on and east of a line beginning at Kosmosdale, thence along U.S. Highway 31W to Elizabethtown, thence along Kentucky Highway 61 to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in that part of Missouri on, north, and west of a line beginning at the Missouri-Kansas State line, thence along Missouri Highway 2 to junction Missouri Highway 13, thence along Missouri Highway 13 to the Missouri-Iowa State line, restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of Keokuk, Iowa.

No. MC-111545 (Sub-No. E130), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Pennsylvania, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Ringgold, Ga.

No. MC-111545 (Sub-No. E132), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Ohio, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Ringgold, Ga.

No. MC-111545 (Sub-No. E133), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Alabama within 175 miles of Chattanooga, Tenn., and on and south of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 72 to Scottsboro, thence along Alabama Highway 79 to Guntersville, thence along Alabama Highway 69 to Cullman, thence along U.S. Highway

278 to Hamilton, thence along U.S. Highway 78 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in Kansas, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Piedmont, Ala.

No. MC–111545 (Sub-No. E147), filed May 30, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Texas, on the one hand, and, on the other, (1) points in those parts of Georgia, Kentucky, and Tennessee within 175 miles of Chattanooga, Tenn. (Corinth, Miss.)*; (2) points in those parts of North Carolina and South Carolina within 175 miles of Charlotte, N.C. [(1) Corinth, Miss., and (2) Anderson, S.C., or Asheville, N.C.]*; and (3) points in New Jersey [Corinth, Miss., and Ringgold, Ga.]*; restricted in (1), (2), and (3) above to the transportation of commodities which are transported on trailers, and further restricted against the transportation of machinery, equipment, material, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and against the transportation of machinery, materials, equipment, and supplies used in or in connection with the construction, operation, repair, servicing, and picking up thereof, and restricted in (3) above against the transportation of knitting machines. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC–111545 (Sub-No. E149), filed May 30, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, (1) between points in Texas, on the one hand, and, on the other, points in New York; and (2) between points in Texas (except points north of U.S. Highway 66), on the one hand, and, on the other, points in Pennsylvania; restricted in (1) and (2) above, to the transportation of commodities transported on trailers, and restricted against the transportation of machinery, equipment, material, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, machinery, materials, equipment, and supplies used in or in connection with the construction, operation, repair, servicing, and picking up thereof, and knitting machines. The purpose of this filing is to eliminate the gateways of Corinth, Miss., and Ringgold, Ga.

No. MC–111545 (Sub-No. E150), filed May 30, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Georgia within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, and Wisconsin, restricted to the transportation of commodities which are transported on trailers, and restricted against the transportation of knitting machines. The purpose of this filing is to eliminate the gateway of Atlanta, Gainesville, or Ringgold, Ga.

No. MC–111545 (Sub-No. E188), filed May 21, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in Iowa, on the one hand, and, on the other, points in that part of Virginia on and south of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 29 to Danville, thence along U.S. Highway 58 to South Boston, thence along U.S. Highway 15 to junction U.S. Highway 360, thence along U.S. Highway 360 to Reedville. The purpose of this filing is to eliminate the gateways of (1) points in Tennessee within 175 miles of Chattanooga, Tenn., and (2) Asheville, N.C.

No. MC–111545 (Sub-No. E190), filed, May 21, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga., 30060. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between the District of Columbia, on one hand, and, on the other, points in that part of Tennessee within 175 miles of Chattanooga, Tenn., and on and west of Tennessee Highway 70. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC–111545 (Sub-No. E191), filed May 21, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in that part of Indiana on and north of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 36 to junction Interstate Highway 74, thence along Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of Keokuk, Iowa, and Alexandria, Mo.

No. MC–111545 (Sub-No. E192), filed May 21, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight requires the use of special equipment, between points in that part of Kentucky within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of Burnsville, N.C.

No. MC–111545 (Sub-No. E193), filed May 21, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30060. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (except knitting machines), the transportation of which because of size or weight, requires the use of special equipment, between points in that part of North Carolina on, south, and east of a line beginning at Atlantic, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction North Carolina Highway 98, thence along North Carolina Highway 98 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC-113459 (Sub-No. E1), filed May 6, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, the transportation of which, by reason of size or weight, require the use of special equipment, between points in Ohio and points in that part of Michigan south of Michigan Highway 55, on the one hand, and, on the other, points in North Dakota, South Dakota, and Montana. RESTRICTION: The operations authorized herein are restricted to commodities which are transported on trailers, and restricted against the transportation of agricultural machinery and agricultural tractors. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

No. MC-113843 (Sub-No. E33), filed May 23, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC-113843 (Sub-No. E293), filed May 12, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission, from Martins Ferry, Ohio, to points in Cattaraugus and Erie Counties, N.Y. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC-113843 (Sub-No. E302), filed May 9, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut, Massachusetts, and Rhode Island to Grand Forks, N. Dak., and Sioux Falls, S. Dak. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC-113843 (Sub-No. E323), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities, in bulk, in tank vehicles), from Boston, Mass., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Duffy-Mott Co., Inc., at or near Williamson, N.Y.

No. MC-113843 (Sub-No. E324), filed May 10, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products*, as defined by the Commission, from Columbus, Ohio, to points in Connecticut. The purpose of this filing is to eliminate the gateway of points in the Buffalo, N.Y., commercial zone.

No. MC-113843 (Sub-No. E325), filed May 10, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products*, as defined by the Commission, from Sandusky, Ohio, to points in Connecticut. The purpose of this filing is to eliminate the gateway of points within the Buffalo, N.Y., commercial zone.

No. MC-113843 (Sub-No. E326), filed May 22, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Baltimore, Md., to points in that part of Iowa on and west of U.S. Highway 69. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC-113843 (Sub-No. E385), filed May 22, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC. 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in those portions of Delaware, Maryland, and Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal to points in Colorado. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC-116273 (Sub-No. E40), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, in tank or hopper-type vehicles, from the Flexi-Flo Terminals of Penn Central Transportation Company at Hammond, Ind., to points in Kansas, Arkansas, and Nebraska, restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of the plant site and facilities of Marbon Chemical, Division of Borg-Warner Corporation at or near Ottawa, Ill.

No. MC-116273 (Sub-No. E41), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the Flexi-Flo Terminals of Penn Central Transportation Company at Hammond, Ind., to points in Kentucky, that part of Ohio south and west of U.S. Highway 24, and Tennessee (except Kingsport), restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of the plant site of Diversified Chemicals and Propellants Company at Frankfort, Ill.

No. MC-116273 (Sub-No. E42), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except petroleum products and fertilizers), in bulk, in tank vehicles, from the Flexi-Flo Terminals of Penn Central Transportation Company at Hammond, Ind., to points in Alabama, Arkansas, Colorado, Georgia, Kansas, Louisiana, Mississippi, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of the facilities of the Philadelphia Quartz Company at or near La Salle, Ill.

No. MC-116273 (Sub-No. E43), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from the Flexi-Flo Terminals of Penn Central Transportation Company at Hammond, Ind., to points in North Dakota, restricted to the transportation of traffic having a prior movement by rail. The purpose of this filing is to eliminate the gateway of Rochelle, Ill.

No. MC-116273 (Sub-No. E44), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Crude coal tar,* in bulk, in tank vehicles, from the plant site and storage facilities of Bethlehem Steel Corporation in Porter County, Ind., to points in Iowa and the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Cicero, Ill.

No. MC–116273 (Sub-No. E45), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: Williams R. Lavery (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crude coal tar,* in bulk, in tank vehicles, from the plant site and storage facilities of Bethlehem Steel Corporation in Porter, County, Ind., to Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of the plant site of Koppers Company, Inc., at Cicero, Illinois.

No. MC–116273 (Sub-No. E46), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: Williams R. Lavery (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* (except petroleum products and fertilizers), in bulk, in tank vehicles, from the plant site of Northern Petrochemical Company in Grundy County, Ill., to points in Georgia and Harris County, Tex. The purpose of this filing is to eliminate the gateway of the facilities of the Philadelphia Quartz Company at or near La Salle, Ill.

No. MC–116273 (Sub-No. E49), filed May 24, 1974. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative; Williams R. Lavery (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal tar and coal tar products* (except coal tar chemicals), in bulk, in tank vehicles, from Milwaukee, Wis., to points in Indiana, Michigan, Ohio, and that part of Iowa on, west, and south of a line beginning at or near Northwood, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction Iowa Highway 92, thence along Iowa Highway 92 to the Iowa-Illinois State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–117883 (Sub-No. E19), filed May 8, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in mechanically refrigerated vehicles, from the plant site and storage facilities of Armour & Company at or near Green Bay, Wis., to points in Connecticut, Delaware, Kentucky on and east of Interstate Highway 65, Maine, Maryland, Massachusetts, New Jersey, New York, New Hampshire, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, and restricted to the transportation of shipments originating at the above-described plant site and storage facilities. The purpose of this filing is to eliminate the gateway of Union City, Ohio.

No. MC–117883 (Sub-No. E41), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and pelts and commodities in bulk), in mechanically refrigerated vehicles, from the plant sites and warehouse facilities of Swift & Company, located within the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, New Hampshire, Ohio, Pennsylvania, Rhode Island, Vermont, that part of Virginia on and east of U.S. Highway 52, West Virginia, the District of Columbia, and Boone, Campbell, Pendleton, Bracken, Robertson, Mason, Lewis, Fleming, Greenup, Carter, Kenton, Boyd, Lawrence, and Elliott Counties, Ky., restricted against the transportation of shipments destined to points in that part of Virginia, located within the Washington, D.C., commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateway of Union City, Ohio.

No. MC–117883 (Sub-No. E42), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen baked stuffed potatoes,* from the plant site or warehouse facilities of Penobscot Frozen warehouse facilities of Penobscot Frozen Foods Company, at Belfast, Maine, to Baltimore, Md., Harrisburg, York, Scranton, Philadelphia, Pittsburgh, and Wilkes-Barre, Pa., and the District of Columbia. The purpose of this filing is to eliminate the gateway of Scranton, Pa.

No. MC–117883 (Sub-No. E43), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Potato products* (except canned goods), from Washburn, Maine, to Baltimore, Md., Harrisburg, Scranton, York, Philadelphia, Pittsburgh, and Wilkes-Barre, Pa., and the District of Columbia. The purpose of this filing is to eliminate the gateway of Scranton, Pa.

No. MC–117883 (Sub-No. E44), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen potato products* (except canned potato products), from Washburn, Maine, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Wisconsin, and points in West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC–117883 (Sub-No. E45), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen baked stuffed potatoes,* from the plant site or warehouse facilities of Penobscot Frozen Foods Company, at Belfast, Maine, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Wisconsin, and points in West Virginia on and west of a line beginning at the West Virginia-Ohio State line and extending along Interstate Highway 77 to its junction with U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC–117883 (Sub-No. E46), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Potato products* (except canned potato products), from Easton, Portland, and Presque Isle, Maine, to Baltimore, Md., Harrisburg, York, Scranton, Philadelphia, Pittsburgh, and Wilkes-Barre, Pa., and the District of Columbia (except that no service is authorized from Portland, Maine, to Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of Scranton, Pa.

No. MC–117883 (Sub-No. E47), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Potato products* (except canned potato products), from Easton, Portland, and Presque Isle, Maine, to points in Kansas. The purpose of this filing is to eliminate the gateways of Scranton, Pa., and Jersey City, N.J.

No. MC-117883 (Sub-No. E48), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative Edward J. Subler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato products* (except canned potato products), from Washburn, Maine, to points in Kansas. The purpose of this filing is to eliminate the gateways of Jersey City, N.J., and Scranton, Pa.

No. MC-117883 (Sub-No. E49), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen baked stuffed potatoes*, from the plant site or warehouse facilities of Penobscot Frozen Foods Company at Belfast, Maine, to points in Kansas. The purpose of this filing is to eliminate the gateways of Scranton, Pa., and Jersey City, N.J.

No. MC-117883 (Sub-No. E50), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Presque Isle, Easton, and Portland, Maine, to Baltimore, Md., Harrisburg, Philadelphia, and Pittsburgh, Pa., and the District of Columbia (except that no service is authorized from Portland, Maine, to Philadelphia, Pa.). The purpose of this filing is to eliminate the gateway of York, Pa.

No. MC-117883 (Sub-No. E51), filed May 6, 1974. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Presque Isle, Easton, and Portland, Maine, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Wisconsin, and that part of West Virginia on and west of a line beginning at the West Virginia-Ohio State line, and extending along Interstate Highway 77 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC-119443 (Sub-No. E7), filed May 13, 1974. Applicant: P. E. KRAMME, INC., Monroeville, N.J. 08343. Applicant's representative: Gerald A. Kramme (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate, liquid chocolate coating, liquid chocolate liquor, and liquid cocoa butter*, in bulk, in tank vehicles, from Hershey, Pa., to points in Florida, Mississippi, and Louisiana and points in those parts of North Carolina, South Carolina, Georgia, Alabama, and Tennessee on and south of a line beginning near the Atlantic Ocean and Wilmington, N.C., on U.S. Highway 74 and 76, thence over U.S. Highway 74 and 76 to junction U.S. Highway 17, thence over U.S. Highway 17 to junction U.S. Highway Alternate 17 at Georgetown, S.C., thence over U.S. Highway Alternate 17 to junction U.S. Highway 176, thence west over U.S. Highway 176 to junction South Carolina Highway 33, thence over South Carolina Highway 33 to Orangeburg, and junction U.S. Highway 301, thence over U.S. Highway 301 to South Carolina Highway 4, thence over South Carolina Highway 4 to junction South Carolina Highway 39, thence south over South Carolina Highway 39 to junction U.S. Highway 78, thence over U.S. Highway 78 to junction South Carolina Highway 781, thence over South Carolina Highway 781 to junction U.S. Highway 278, thence over U.S. Highway 278 to junction South Carolina Highway 125, thence over South Carolina Highway 125 to junction U.S. Highway 78, thence over U.S. Highway 78 to Augusta, Ga., and junction U.S. Highway 25, thence north over U.S. Highway 25 to junction Interstate Highway 20, thence west over Interstate Highway 20 to junction U.S. Highway 278, thence over U.S. Highway 278 to junction Georgia Highway 15, thence north over Georgia Highway 15 to junction U.S. Highway 129 and 441, thence south over U.S. Highway 129 and 441 to junction Georgia Highway 186, thence over Georgia Highway 186 to junction Georgia Highway 83, thence over Georgia Highway 83 to junction Georgia Highway 11.

Thence north over Georgia Highway 11 to junction Georgia Highway 53, thence over Georgia Highway 53 to junction U.S. Highway 23, thence south over U.S. Highway 23 to junction Interstate Highway 285, thence west over Interstate Highway 285 to junction Georgia Highway 70, thence over Georgia Highway 70 to junction U.S. Highway 29, thence over U.S. Highway 29 to junction Georgia Highway 34, thence over Georgia Highway 34 to the Alabama State line and junction Alabama Highway 22, thence over Alabama Highway 22 to junction Alabama County Highway 86 to Newsite, thence over Alabama County Highway 86 to junction U.S. Highway 280, thence north over U.S. Highway 280 to junction U.S. Highway Alternate 231, thence north over U.S. Highway Alternate 231 to junction U.S. Highway 78, thence over U.S. Highway 78 to junction Interstate Highway 20, thence over Interstate Highway 20 to junction U.S. Highway 231, thence over U.S. Highway 231 to Alabama Highway 174, thence over Alabama Highway 174 to junction U.S. Highway 11, thence south over U.S. Highway 11 to junction Alabama County Highway 30, thence over Alabama County Highway 30 to junction Alabama County Highway 131, thence over Alabama County Highway 131 to junction U.S. Highway 31, thence north over U.S. Highway 31 to junction Interstate Highway 65 near Macon, Ga., thence over Interstate Highway 65 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction U.S. Highway 31.

Thence over U.S. Highway 31 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Highway 64, thence over U.S. Highway 64 to junction U.S. Highway 43, thence north over U.S. Highway 43 to Tennessee Highway 20, thence over Tennessee Highway 20 to junction Tennessee Highway 13, thence north over Tennessee Highway 13 to junction Interstate Highway 40, thence west over Interstate Highway 40 to junction Tennessee Highway 1 and U.S. Highway 70, thence over Tennessee Highway 1 and U.S. Highway 70 to junction Tennessee Highway 19, thence over Tennessee Highway 19 to the Mississippi River, and points in that part of Iowa on and west of a line beginning at Sioux City, and U.S. Highway 20, thence east over U.S. Highway 20 to junction Iowa Highway 140, thence north over Iowa Highway 140 to Kingsley and junction unnumbered Iowa Highway, thence north over unnumbered Iowa Highway to junction Iowa Highway 10, 4 miles west of Granville, thence east over Iowa Highway 10 to junction U.S. Highway 59, thence north over U.S. Highway 59 to junction Iowa Highway 9, thence east over Iowa Highway 9 to junction Iowa Highway 219, thence north over Iowa Highway 219 to the Minnesota State line, and points in that part of Maine on and north of a line beginning at the United States-Canada International Boundary line and unnumbered Maine Highway near Easton, thence west over unnumbered Maine Highway to junction Maine Highway 10, thence west over Maine Highway 10 to Presque Isle and junction Maine Highway 163, thence west over Maine Highway 163 to junction Maine Highway 11, thence north over Maine Highway 11 to the United States-Canada International Boundary line, and points in that part of Minnesota north and west of a line beginning at Duluth and U.S. Highway 61 and Interstate Highway 35, thence south over U.S. Highway 61 and Interstate Highway 35 to junction Minnesota Highway 23, thence over Minnesota Highway 23 to junction Minnesota Highway 4, thence south over Minnesota Highway 4 to junction U.S. Highway 14, thence west over U.S. Highway 14 to junction U.S. Highway 71, thence south over U.S. Highway 71 to its junction with Minnesota Highway 60, thence west over Minnesota Highway 60 to junction Minnesota Highway 86, thence south over Minnesota Highway 86 to the Iowa State

line. The purpose of this filing is to eliminate the gateway of Elizabethtown, Pa., Camden, N.J., and Dover, Del.

No. MC-119531 (Sub-No. E89), filed June 4, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products*, from points in Washington, Greene, Fayette, Allegheny, Beaver, Butler, and Erie Counties, Pa., (a) to points in Kentucky and points in Indiana (except from points in Erie County, Pa., to points in Indiana north of a line beginning at the Ohio-Indiana State line and extending west on Indiana Highway 32 to its intersection with U.S. Highway 52, thence along U.S. Highway 52 to its intersection with Indiana Highway 18, thence along Indiana Highway 18 to the Indiana-Illinois State line); and (b) to points in Missouri and points in Illinois (except from Erie County, Pa., to points in Illinois north of a line beginning at the Indiana-Illinois State line and extending west along U.S. Highway 24 to Peoria, thence along Interstate Highway 74 to its intersection with U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line). The purpose of this filing is to eliminate the gateways of (1) Circleville, Ohio, for (a) above, and (2) Circleville, Ohio, and the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind.

No. MC-119531 (Sub-No. E90), filed June 4, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container closures*, (1) from the plant site of Crown Cork & Seal Company, Inc., at St. Louis, Mo., to points in Minnesota, North Dakota, South Dakota, and Wisconsin; (2) from the plant site of Crown Cork & Seal Company, Inc., at St. Louis, Mo., to points in New York, Delaware, Massachusetts, and Connecticut; and (3) from the plant site of Crown Cork & Seal Company, Inc., at St. Louis, Mo., to points in Pennsylvania, New Jersey, West Virginia, and Virginia, restricted against the movement of commodities in bulk and those requiring the use of special equipment. The purpose of this filing is to eliminate the gateways of (a) Rockford, Ill., for (1) above; (b) Cleveland, Ohio, for (2) above; and (c) the plant and warehouse sites of the Heekin Can Company at Cincinnati, Ohio.

No. MC-119531 (Sub-No. E91), filed June 4, 1974. Applicant: SUN EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard cartons*, (1) from points in Ohio on and east of a line extending south from the shore of Lake Erie at Lorain, Ohio, along Ohio Highway 57 to Belden, thence along Ohio Highway 83 to Wooster, thence along U.S. Highway 250 to the Ohio-West Virginia State line, to points in Illinois and points in Wisconsin (except points south and east of a line extending west from the shore of Lake Michigan at Port Washington, Wis., along Wisconsin Highway 33 to its intersection with Wisconsin Highway 67, thence along Wisconsin Highway 67 to the Wisconsin-Illinois State line; and (2) from points in Ohio on and east of a line extending south from the shore of Lake Erie at Cleveland, Ohio, along Interstate Highway 71 to its intersection with Ohio Highway 18, thence along Ohio Highway 18 to its intersection with Interstate Highway 77, thence along Interstate Highway 77 to its intersection with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State line, to points in Indiana, Minnesota, Missouri, and points in Kentucky on and west of U.S. Highway 41. The purpose of this filing is to eliminate the gateways of (1) Cleveland, Ohio, to points in Illinois and Indiana, (2) Cleveland, Ohio, and Rockdale, Ill., to points in Wisconsin, (3) Cleveland, Ohio, and Anderson, Ind., to points in Minnesota, and (4) Cleveland, Ohio, and the plant and warehouse sites of Weyerhaeuser Company at Columbus, Ind., to points in Kentucky and Missouri.

No. MC-119864 (Sub-No. E4), filed May 25, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned or preserved foodstuffs, cooking oil, and shortening* (except commodities in bulk, in tank vehicles), from Toledo, Ohio, to St. Louis, Mo., points in Illinois and that part of Kentucky on and east of Kentucky Highway 7; and (2) *canned or preserved foodstuffs, cooking oil, and shortening* (except frozen foodstuffs and commodities in bulk, in tank vehicles), from Toledo, Ohio, to points in that part of Michigan on, south, and west of a line beginning at the Ohio-Michigan State line, thence along Michigan Highway 99 to Eaton Rapids, thence along Michigan Highway 50 to junction Michigan Highway 66, thence along Michigan Highway 66 to Ionia, thence along Michigan Highway 21 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Archbold, Ohio.

No. MC-119864 (Sub-No. E5), filed May 25, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, glass containers, caps, covers, and stoppers, and paper of fibreboard cartons*, from the plantsite or warehouse facilities of Ball Brothers Company, Inc., Mundelein, Ill., to points in that part of Michigan south of Michigan Highway 21, and that part of Ohio on, north, and west of a line beginning at the Ohio-Indiana State line, thence aong U.S. Highway 36 to Delaware, thence along U.S. Highway 42 to Cleveland. The purpose of this filing is to eliminate the gateway of Gary, Ind.

No. MC 119864 (Sub-No. E6), filed May 25, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, mayonnaise, and mayonnaise products*, from National City, Ill., to Columbus and Cleveland, Ohio. The purpose of this filing is to eliminate the gateway of Indianapolis, Ind.

No. MC-119864 (Sub-No. E7), filed May 14, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* as are incidental to the production, packing, and sale of food products and dairy products and by-products, (1) from Chicago, Freeport, and Joliet, Ill., to points in Kentucky on and east of U.S. Highway 23, (2) from points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 30 to its junction with U.S. Highway 421, thence along U.S. Highway 421 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line;

(3) From points in that part of Indiana on, west, and south of a line beginning at the Indiana-Kentucky State line, and extending along U.S. Highway 41 to its junction with Indiana Highway 57, thence along Indiana Highway 57 to Washington, thence along Indiana Highway 50 to Bedford, thence along Indiana Highway 37 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to the Indiana-Ohio State line to points in that part of Pennsylvania on, north, and east of a line beginning at the Ohio-Pennsylvania State line, and extending along Interstate Highway 80 to its junction with U.S. Highway 322, thence along U.S. Highway 322 to Harrisburg, thence along Pennsylvania Highway 230 to its junction with Pennsylvania Highway 283, thence along Pennsylvania Highway 283 to Lancaster, thence along U.S. Highway 222 to the Pennsylvania-Maryland State line; (4) from Marshall, Ill., to points in Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to Pittsburgh, thence along U.S. Highway 30 to Breezewood, thence along Interstate

Highway 70 to the Pennsylvania-Maryland State line; (5) from Chicago, Joliet, and Freeport, Ill., and points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 136 to Crawfordsville, thence along Indiana Highway 32 to its junction with Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 26, thence along Indiana Highway 26 to the Indiana-Ohio State line, to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Rossford, Ohio.

No. MC-119864 (Sub-No. E8), filed May 14, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* from Detroit, Mich., to Wapakoneta, Ohio, restricted to shipments moving from, to, or between plants, warehouses, or other facilities of food manufacturing and dairy establishments and to traffic having a prior movement by water. The purpose of this filing is to eliminate the gateway of Toledo, Ohio.

No. MC-119864 (Sub-No. E9), filed May 14, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Advertising matter and empty containers for food and dairy products used by packinghouses*, from Detroit, Mich., and Toledo, Ohio, to Gary, Ind., St. Louis, Mo., and points in Illinois, restricted to shipments moving from, to, or between plants, warehouses, or other facilities of food manufacturing and dairy establishments. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC-119864 (Sub-No. E10), filed May 14, 1974. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, glass containers, closures for glass containers, and paper cartons*, for food and dairy products, from Toledo, Ohio, to Gurnee, Ill., restricted to shipments moving from, to, or between plants, warehouses, or other facilities of food manufacturing and dairy establishments. The purpose of this filing is to eliminate the gateway of Gary, Ind.

No. MC 119991 (Sub-No. E1), filed May 13, 1974. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, Ind. 46947. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Green hides and skins*, salted, (a) from points in Minnesota, Georgia, Illinois, Florida, Tennessee, and Alabama to points in Massachusetts, New York, and Maine; (b) from points in Missouri and Iowa to points in New York; and (c) from points in Kentucky to points in New York and Maine. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC-121060 (Sub-No. E5), filed May 7, 1974. Applicant: ARROW TRUCK LINES, INC., 1220 West Third Street, Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, Jr., 919 18th Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition board, insulation materials, construction urethane, urethane construction products, and related materials, supplies and accessories* (except commodities in bulk), from points in Madison County, Ala., to points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to its intersection with U.S. Highway 1, thence along U.S. Highway 1 to Raleigh, thence along U.S. Highway 401 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of the plant and warehouse site of the Celotex Corporation in Birmingham, Ala.

No. MC-121060 (Sub-No. E7), filed May 7, 1974. Applicant: ARROW TRUCK LINES, INC., 1220 West Third Street, Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials and gypsum and gypsum products, composition board, insulation materials, construction urethane, urethane construction products, and related materials, supplies and accessories* (except commodities in bulk), from points in Blount County, Ala., to points in South Carolina on and east of a line beginning at the South Carolina-North Carolina State line and extending along South Carolina Highway 200 to its intersection with U.S. Highway 21, thence along U.S. Highway 21 to its intersection with U.S. Highway 21 thence along U.S. Highway 321 to its intersection with U.S. Highway 301, thence along U.S. Highway 301 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of the plant and warehouse site of the Celotex Corporation in Birmingham, Ala.

No. MC-121420 (Sub-No. E3), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulk commodities as are transported in dump trucks*, between points in Ashtabula County, Ohio, north and east of a line beginning at the Ohio-Pennsylvania State line and extending west along U.S. Highway 20 to its intersection with Ohio Highway 45, thence along Ohio Highway 45 to the shore of Lake Erie, on the one hand, and, on the other, points in Summit, Stark, and Wayne Counties, Ohio, within 50 miles of Toronto, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC-121420 (Sub-No. E4), filed June 4, 1974. Applicant: DART TRUCKING CO., INC., 61 Railroad Street, Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such bulk commodities as are transported in dump trucks*, between points in Ashtabula County, Ohio, north and east of a line beginning at the Ohio-Pennsylvania State line and extending west along U.S. Highway 20 to its intersection with Ohio Highway 45, thence along Ohio Highway 45 to the shore of Lake Erie, on the one hand, and, on the other, points in Mahoning and Columbiana Counties, Ohio. The purpose of this filing is to eliminate the gateway of Mercer County, Pa.

No. MC-123430 (Sub-No. E2), filed May 28, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60454. Applicant's representative: Richard A. Kerwin, 127 North Dearborn Street, Suite 1133, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, vegetable oils, edible blends and edible products of animal fats, animal oils, and vegetable oils, not including liquid chemicals*, from points in Illinois and Indiana within the territory bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, Ill., thence south to Galesburg, Ill., thence southeast to Peoria, Ill., thence east to Onarga, Ill., thence northeast of Warsaw, Ind., thence north to Goshen, Ind., thence northwest through Chicago, Ill., to Winthrop Harbor, Ill., and thence west through South Beloit and Warren, Ill., to Galena, Ill., including the points named to points in Maine. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC-123430 (Sub-No. E2), filed May 28, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60453. Applicant's representative: Richard A. Kerwin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and*

vegetable oils (not including liquid chemicals), from points in Illinois and Indiana within the the territory bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, Ill., thence south to Galesburg, Ill., thence southwest to Peoria, Ill., thence east to Onarga, Ill., thence northeast to Warsaw, Ind., thence north to Goshen, Ind., thence northwest through Chicago, Ill., to Winthrop Harbor, Ill., and thence west through South Beloit and Warren, Ill., to Galena, Ill., including the points named to points in Wisconsin and points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–123430 (Sub-No. E3), filed May 28, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60425. Applicant's representative: Richard A. Kerwin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils, not including liquid chemicals*, from points in Lake County, Ind., on and north of U.S. Highway 30, and points in Illinois within the territory bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, thence south to Galesburg, thence southeast to Peoria, thence east to Onarga, thence northeast to the Illinois-Indiana State line near Donovan, thence north along the Illinois-Indiana State line to Chicago, thence northwest to Winthrop Harbor, and thence west through South Beloit and Warren to Galena, including the points named, to points in the Lower Peninsula of Michigan and points in Ohio (except points in Preble, Montgomery, Greene, Fayette, Butler, Warren, Clinton, Brown, Clermont, and Hamilton Counties). The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–123430 (Sub-No. E4), filed May 28, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60425. Applicant's representative: Richard A. Kerwin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils, not including liquid chemicals*, from Aurora, Ill., and points in Peoria, La Salle, Grundy, Knox, Livingston, and Kendall Counties, Ill., bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, thence south to Galesburg, thence southeast to Peoria, thence east of Onarga, thence northeast to the Illinois-Indiana State line near Donovan, thence north along the Illinois-Indiana State line to Chicago, thence northwest of Winthrop Harbor and thence west through South Beloit and Warren to Galena, including the points named, to points in Wisconsin on and east of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–124078 (Sub-No. E18), filed May 29, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, liquid, in bulk, in tank vehicles, (1) from Brunswick, to points in Arkansas (except points in Chicot, Ashley, and Union Counties), Illinois (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission), Indiana, Iowa, Kentucky, Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission), and points in Ohio in, east, and north of Erie, Huron, Crawford, Wyandot, Hardin, Logan, Champaign, Clark, Greene, Warren, and Hamilton Counties; and (2) from Savannah, Ga., to points in Arkansas (except points Chicot, Ashley, Union, Columbia, and Lafayette Counties), Illinois (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission), Indiana, Iowa, Kentucky, and Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission). The purpose of this application is to eliminate the gateways of points in Marshall County, Ala., and Maury County, Tenn.

No. MC–124692 (Sub-No. E1), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4357, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel building materials*, from Granite City, Ill., to points in Idaho, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of points in Big Horn County, Wyo.

No. MC–124692 (Sub-No. E2), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Johnson & Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Minneapolis, Minn., to points in Idaho, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of points in Big Horn County, Wyo.

No. MC–124692 (Sub-No. E4), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Johnson & Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and millwork*, from points in Wisconsin and the Upper Peninsula of Michigan, to points in California. The purpose of this filing is to eliminate the gateway of points in Montana.

No. MC–124692 (Sub-No. E6), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing, roof cements, foundation coatings, lap cement and coatings, asbestos fiber coatings, asphalt felt, tapes, plaster, plasterboard, paints, varnish, and stains*, from St. Paul, Minn., to points in Idaho, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of points in Big Horn County, Wyo.

No. MC–124692 (Sub-No. E7), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk, in tank vehicles), from Dubuque, Iowa, to points in Washington and Oregon. The purpose of this filing is to eliminate the gateway of points in Big Horn County, Wyo.

No. MC–124692 (Sub-No. E8) filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except commodities in bulk), from Denver, Colo., to points in Washington and that part of Oregon on and north of U.S. Highway 20 and on and west of U.S. Highway 395. The purpose of this filing is to eliminate the gateway of points in Big Horn County, Wyo.

No. MC–124692 (Sub-No. E9), filed May 13, 1974. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from points in Big Horn County, Wyo., and the facilities of Federal Bentonite Co., in Crook County, Wyo., to points in Missouri, Indiana, Michigan, and Ohio. The purpose of this filing is to eliminate the gateway of the facilities of American Colloid Company at or near Belle Fourche, S. Dak.

No. MC–126420 (Sub-No. E1), filed May 6, 1974. Applicant: FOSS L & T CO., P.O. Box 3161, Seattle, Washington 98114. Applicant's representative: D. W. Hearn (same as above). Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment), between points in Washington (except Mason, Kitsap, Clallam, and Jefferson Counties), on the one hand, and, on the other, points in that part of Alaska lying south and east of the International Boundary line between the United States and Canada, located at or near Haines, Alaska (except Skagway, Alaska). The purpose of this filing is to eliminate the gateway of Ketchikan, Alaska.

No. MC-127042 (Sub-No. E31), filed May 6, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Watertown, S. Dak., to points in Illinois, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Luverne, Minn.

No. MC-127042 (Sub-No. E32), filed May 6, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Rapid City, S. Dak., to points in Illinois, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Sioux City, Iowa, and Luverne, Minn.

No. MC-127042 (Sub-No. E33), filed May 6, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Scottsbluff, Nebr., to points in Minnesota, Wisconsin, and points in Illinois on and north of U.S. Highway 36. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities utilized by Greenlee Packing Company, at or near Sioux Falls, S. Dak.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-16630 Filed 7-19-74;8:45 am]

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MONDAY, JULY 22, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 141

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Grant Regulations

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Subpart A—Maternal and Child Health and Crippled Children's Services

On February 9, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 3991), proposing to revise 42 CFR Part 200, governing the maternal and child health and crippled children's services program under sections 501–507 of the Social Security Act (42 U.S.C. 701–707) and to redesignate such part as Subpart A of Part 51a of 42 CFR. Interested persons were afforded the opportunity to submit written comments or suggestions thereon. Comments and suggestions were received from seven States and two private agencies. Following is a summary of the comments and the response to such comments:

1. Two comments requested clarification of proposed § 51a.123. Two definitions covering "specialized expenditures" and "supporting expenditures" (§ 51a.-101 (m) and (n)) were added as a result of the comments.

2. Three comments were received relating to the provision in § 51a.109 that no charge may be made for the provision of diagnostic services in the crippled children's program except for payment by third parties which are authorized or under a legal obligation to pay such charges. Large increases in Federal appropriations were made based on the intention that early screening and diagnosis be provided to all children. Charges other than those paid by third parties have never been made for such services, in order to maximize casefinding in accord with Congressional intent. Accordingly, no changes were made in the provisions relating to charges except for the addition of language stating that where costs are to be paid by a governmental agency, a written agreement with that agency is required.

3. Additional comments raised objections to the formula used in the distribution of funds, including the suggestion that the urban-rural weighting be reversed so as to favor urban areas. The objections were not accepted because they are counter to legislative requirements.

4. Other comments raised objections to minor provisions of the regulations which could not be modified because of the statute.

In addition to the changes described above and certain technical and clarifying changes, the regulations as set forth below include a number of new provisions required by the Social Security Amendments of 1972, P.L. 92–603, which amended Title V of the Social Security Act in several respects. Those new provisions are as follows:

1. Section 51a.114, formerly entitled "Rates of remuneration for hospital care", has been retitled "Payment for inpatient hospital services" and has been revised to reflect the amendments made to section 505(a)(6) of the Social Security Act by sections 221(c)(1) and 232 (b) of P.L. 92–603 (86 Stat. 1389, 1411), which require that the reasonable cost of inpatient hospital services under the plan shall not exceed the amount which would be determined under section 1861 (v) of the Act (sec. 232(b)) and that any action taken by the Secretary pursuant to section 1122(d) of the Act be taken into account in determining such cost (sec. 221(c)(1)).

2. Section 51a.129, formerly entitled "Extension of services", has been retitled "Withholding of payments" and has been revised to reflect the new section 506(f) of the Act, as added by section 224(d) of P.L. 92–603 (86 Stat. 1395) and amended by section 229(d) thereof (86 Stat. 1410), requiring that no payment for items or services furnished under the plan may be made to the extent that such payment exceeds the charge that would be reasonable under the fourth and fifth sentences of section 1842(b)(3) of the Act (relating to prevailing charge levels), or with respect to any amount paid for services furnished by a provider or other person during any period of time with respect to which payment may not be made under Title XVIII of the Act to such person or provider solely by reason of a determination by the Secretary under section 1862(d)(1) or clause (D), (E), or (F) of section 1866(b)(2) of the Act (relating to false statements and misrepresentation, excess charges, and excess or inferior services). Section 51a.-129 also includes a new paragraph (d) which implements section 506(g) of the Act, added by section 221(c)(2) of P.L. 92–603 (86 Stat. 1389), relating to the limitation on Federal reimbursement pursuant to section 1122 of the Social Security Act.

These provisions have been added without a notice of proposed rulemaking or invitation for public comment because they substantially repeat statutory provisions which are self-executing, without adding additional requirements. Accordingly, the Secretary has found pursuant to 5 U.S.C. 553 that such notice and public participation are impracticable and unnecessary.

It is noted, however, that three additional amendments made to Title V of the Social Security Act by P.L. 92–603 are not reflected in the regulations set forth below. Section 233(d) of P.L. 92–603 (86 Stat. 1412) amended section 506(f) of the Act to limit payment for inpatient hospital services furnished under the plan to amounts not in excess of hospitals' customary charges or an amount which the Secretary finds "will provide fair compensation" for such services. Section 237(b) of P.L. 92–603 (86 Stat. 1416) further amended section 506(f) to require, subject to certain exceptions, that payment for services furnished by hospitals under the plan be available only to hospitals which have in effect utilization review plans which meet the requirement imposed by section 1861(k) for purposes of Title XVIII. Section 239(c) of P.L. 92–603 (86 Stat. 1411) adds a new section 505(a)(15), requiring review by professional health personnel of the appropriateness and quality of care and services as a condition of State plan approval. Regulations implementing these three amendments require extensive coordination among various elements of the Department, and are currently under development.

Finally, it is noted the regulations contain a number of changes necessary to conform these regulations to the requirements of 45 CFR Part 74, Administration of Grants, which became effective on September 19, 1973 (38 FR 2673).

Accordingly, 42 CFR Part 2000 is revised and redesignated as Subpart A of 42 CFR Part 51a, and is adopted as set out below.

Effective date. These regulations are effective on July 22, 1974.

Dated: June 26, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: July 16, 1974.

CASPAR W. WEINBERGER,
Secretary.

Subpart A—Maternal and Child Health and Crippled Children's Services

AUTHORITY: Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302; sec. 301, 81 Stat. 921, 42 U.S.C. 701–707, 713, 714.

Subpart A—Maternal and Child Health and Crippled Children's Services

§ 51a.101 Definitions.

Unless the context otherwise requires, the following terms as used in these regulations have the following meanings:

(a) "State" means the several States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(b) "State Agency" means the official agency of a State administering or supervising the administration of a State plan for maternal and child health or crippled children's services.

(c) "Act" means the Social Security Act as amended (42 U.S.C. Chap. 7);

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated;

(e) "Official forms" means forms supplied by the Secretary to State agencies for requesting funds and for submitting State budgets or reports under Title V of the Act;

(f) "Crippled child" means an individual below the age of 21 who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development;

(g) "Facilitating services" means transportation, subsistence away from home, drugs, biologicals, communications, supplies and equipment as may be necessary for the provision of maternal and child health or crippled children's services;

(h) "Health" means a state of physical and mental well-being, not merely the absence of disease or infirmity;

(i) "Medical care" means services, including services in hospitals, convalescent homes, and clinics, and home health services, by physicians and the allied services of dentists, nurses, medical social workers, nutritionists, dietitians, physical therapists, occupational therapists, speech and hearing specialists, optometrists, technicians and other personnel whose services are needed in the maternal and child health and crippled children's programs;

(j) "Maternal and child health services" means (1) the provision of educational, preventative, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward reducing infant mortality and improving the health of mothers and children; (2) the development, strengthening and improvement of standards and techniques relating to such services and care; (3) the training of personnel engaged in the provision, development, strengthening or improvement of such services and care; and (4) necessary administrative services in connection with the foregoing;

(k) "Crippled children's services" means (1) the early location of crippled children; (2) the provision for such children of preventive, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward the diagnosis of the condition of such children or toward the restoration of such children to maximum physical and mental health; (3) the development, strengthening and improvement of standards and techniques relating to the provision of such care and services; (4) the training of personnel engaged in the provision, development, strengthening or improvement of such care and services; and (5) necessary administrative services in connection with the foregoing;

(l) "Demonstration services" means either (1) the provision in a county, district, or community of more and better health services than are available in any comparable area in the State, utilizing facilities meeting acceptable standards and personnel who are especially well qualified, for the purpose of establishing standards of care and service that can be shown to be practical, effective and adequate to improve the health of mothers and children, or (2) the provision of a special type of health service for the purpose of proving its value in improving the health of mothers and children and in providing information on cost, methods of development, techniques of provision and the administration of a given type of health service not generally available to mothers and children;

(m) "Specialized expenditures" means expenditures for salaries, services, items of equipment or supply, and other expenditures for the maternal and child health or crippled children's programs, the cost and use of which are not shared by any other program.

(n) "Supporting expenditures" means those expenditures which are shared by two or more programs and allocated among such programs.

§ 51a.102 Submission of State plans.

In order to receive funds from an allotment for maternal and child health and crippled children's services a State must submit to and have approved by the Secretary a State plan which contains or, as required by these regulations, incorporates by reference the information and meets the requirements specified in title V of the Act and these regulations. Such plan shall be submitted by the State agency officially designated and authorized to administer it, after reasonable opportunity has been provided to the Governor of the State for his review and comment. Documents incorporated by reference become a part of the State plan as though fully set forth therein. Such documents must be (a) clearly identified as to subject, date, and location, (b) officially adopted and disseminated in accordance with applicable procedures, and (c) made available to the Secretary and to the public for inspection.

§ 51a.103 Administration locally of State plans.

The State plan shall:

(a) Contain an assurance that the administration of the State plan in local communities will be performed

(1) Directly by the State agency; or

(2) By local public agencies which are, with respect to their administration locally of such plan, supervised by the State agency; or

(3) By a combination of the foregoing methods of administration; and

(b) Incorporate by reference documents showing the manner in which the State agency will exercise and make effective its supervision over the operations of the local public agencies with respect to their administration locally of such plan.

§ 51a.104 Program units.

(a) The State plan shall incorporate by reference documents showing:

(1) With respect to the maternal and child health services program the establishment in the State agency, under the direction of a program director, of a separate organizational unit charged primarily with responsibilities in the field of maternal and child health and including, at least, the planning, promoting, and coordinating of maternal and child health services and the administration of the unit and its staff as provided under the State plan; and

(2) With respect to the crippled children's services program, the establishment, in the State agency, of a separate organizational unit charged primarily with responsibilities in the field of health services for crippled children and including, at least, the planning, promoting and coordinating of crippled children's services and the administration of the unit and its staff as provided under the State plan: *Provided*, That, where the major functions of the State agency relate to the provision of health services to children, as in the case of a crippled children's commission, such commission shall itself be considered the separate organizational unit required.

(b) The State plan may provide for combining the crippled children's program unit and the maternal and child health program unit into one organizational unit under the direction of a single program director.

§ 51a.105 Program directors.

The State plan must contain an assurance that the maternal and child health and crippled children's program unit or units will both or each be under the direction of a program director who will be (a) a physician; (b) a full-time employee of the State agency; (c) devoting his full time, during the hours of his employment by the State agency, to the

work of the program unit of which he is the director: *Provided,* That, upon prior approval of the Secretary and where satisfactory evidence is incorporated by reference justifying such provision, the State plan may provide for the part-time employment of such physician.

§ 51a.106 Information on services available.

The State plan shall incorporate by reference documents showing how the public throughout the State will be fully informed as to the maternal and child health and crippled children's services available under the State plan.

§ 51a.107 Limitations on provision of services.

The State plan for maternal and child health and crippled children's services shall contain an assurance that hospital, rehabilitation, convalescent or foster home care, or appliances provided to individuals under the plan, will be made available only to individuals who are receiving medical services provided or arranged for by the State agency in accordance with the standards and policies of the plan.

§ 51a.108 Crippled Children's Program; required content.

With respect to services for crippled children, the State plan shall incorporate by reference documents showing that provision has been made for:

(a) Services for the early identification of children in need of health care and services;

(b) Diagnosis and evaluation of the condition of such children;

(c) Treatment services including at least appropriate services by physicians, applicances, hospital care, and aftercare as needed; and

(d) The development, strengthening, and improvement of standards and services for crippled children.

§ 51a.109 Crippled Children's Program; diagnostic services.

With respect to services for crippled children, the State plan shall contain an assurance that the diagnostic services under the plan will be made available within the area served by each diagnostic center to any child (a) Without charge to the child or his family, except to the extent that payment will be made by a third party (including a governmental agency) which is authorized or under legal obligation to pay such charges. Where the cost of diagnostic services is to be reimbursed by a governmental agency, a written agreement with that agency is required. Reimbursement may be made either to the State or directly to the provider in accordance with such an agreement; (b) Without restriction or requirement as to the economic status of such child's family or relatives or their legal residence; and (c) Without any requirement for the referral of such child by any individual or agency.

§ 51a.110 Standards relating to personnel and facilities.

The State plan shall incorporate by reference the standards required for personnel and facilities utilized in the provision of services under the plan. These standards for personnel and facilities must be those which (a) are found, upon investigation by the State agency, to be best adapted for the attainment of the specific purpose; (b) assure a reasonably high standard of care; (c) meet State and local licensing laws; and (d) are in substantial accordance with national standards as accepted by the Secretary or standards prescribed by the Secretary.

§ 51a.111 Authorization of service.

The State plan shall contain an assurance that all services purchased for individuals under the plan will be authorized by employees of the State agency, or by employees of the local public agency administering a part of the plan locally under the supervision of the State agency, and that records of such authorizations will be retained by the State or local public agency as part of the individual's case record.

§ 51a.112 Confidential information.

The State plan shall:

(a) Contain an assurance that all information as to personal facts and circumstances obtained by the State or local staff administering the program shall constitute privileged communications, shall be held confidential and shall not be divulged without the individual's consent except as may be necessary to provide services to individual mothers and children: *Provided,* That, information may be disclosed in summary, statistical or other form which does not identify particular individuals; and

(b) Incorporate by reference the suitable regulations and safeguards to carry out the provisions of paragraph (a) of this section.

§ 51a.113 Rates of payment for medical care, appliances, and convalescent and foster home care.

The State plan shall incorporate by reference the schedule of rates and the methods utilized by the State agency in establishing and substantiating that rates of payment for medical care, appliances, and convalescent and aftercare provided under such plan are reasonable and necessary to maintain the standards relating to personnel and facilities established pursuant to § 51a.110. Such rates may be based on reimbursement to providers of such services on a prepaid capitation basis.

§ 51a.114 Payment for inpatient hospital services.

The State plan shall contain an assurance that payment for inpatient hospital services provided under the plan shall be the reasonable cost of such services which shall be developed by the State and included in the plan. The reasonable cost of any such services shall not exceed the amount which would be determined under section 1861(v) of the Act as the reasonable cost of such services for purposes of Title XVIII, and shall take into account any action taken by the Secretary pursuant to section 1122(d) of the Act with respect to any such hospital.

§ 51a.115 Additional remuneration for services.

The State plan shall contain an assurance that professional personnel, hospitals, and other individuals, agencies or groups providing any services authorized by the State agency under a State plan, shall agree not to make any charge to or accept any payment from the patient or his family for such services unless the amount of such payment is determined and authorized for each patient by the State agency.

§ 51a.116 State reports and records.

The State plan shall contain an assurance that in addition to any other reports or records required by these regulations or which may reasonably be required by the Secretary under Title V of the Act:

(a) The State agency shall maintain adequate records to show the disposition of all funds (Federal and non-Federal) expended for activities under the approved State plan.

(b) The State agency shall make annual expenditure and performance reports in accordance with Subparts I and J of 45 CFR Part 74.

(c) All records required pursuant to title V of the Act and these regulations shall be retained in accordance with Subpart D of 45 CFR Part 74.

§ 51a.117 Demonstration services.

The State plan shall incorporate by reference documents providing for the development of demonstration services (with special attention to dental care for children and family planning services for mothers) in needy areas and among groups in special need and setting forth the policies, standards, and criteria applicable to the development and provision of such services, and to the selection of such areas and groups.

§ 51a.118 Use of subprofessional staff and volunteers.

The State plan shall incorporate by reference documents showing:

(a) Provision for the training and effective use of paid subprofessional staff in the administration of the plan. Particular emphasis shall be given to full-time or part-time employment of persons of low income as community services aides.

(b) Provision for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency.

(c) That the State plan meets the requirements established by the Secretary

for training and effective use of subprofessional and volunteer staff contained in 45 CFR Part 225.

§ 51a.119 Use of optometrists.

The State plan shall contain an assurance that, where payment is authorized under the plan for services which an optometrist is licensed to perform, the individual for whom such payment is authorized may obtain such services from a licensed optometrist. This assurance does not apply, however, in cases where such services are rendered in a clinic or other appropriate institution which does not have an arrangement with optometrists licensed to perform such services.

§ 51a.120 Acceptance of family planning services.

The State plan shall contain an assurance that acceptance of family planning services offered under the plan shall be voluntary on the part of the individual to whom such services are offered. Acceptance of family planning services shall not be a prerequisite to eligibility for or the receipt of any service under the plan.

§ 51a.121 Cooperation with other agencies and groups.

The State plan shall contain an assurance of cooperation with the State agency which administers the program of medical assistance established under title XIX of the Act and with other medical, health, nursing, educational, and welfare groups and organizations, and, with respect to the portion of the plan relating to services for crippled children, with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

§ 51a.122 Specialized and supporting expenditures.

(a) For its crippled children's program, the State plan shall, with respect to the State agency's total annual expenditures of Federal and required matching funds for such program, incorporate by reference documents identifying as specialized expenditures for such program an amount equal to 80 percent or more of the total annual expenditures of Federal and required matching funds for that program, provided the remaining 20 percent or less of such total expenditures were for purposes within the scope of the approved crippled children's services plan.

(b) For its maternal and child health program, the State plan shall, with respect to the State agency's total annual expenditures of Federal and required matching funds for such program, incorporate by reference documents providing for the allocation of such expenditures to such program in accordance with either of the following procedures:

(1) On the basis of objective criteria set forth in the State plan, allocate to such program a portion of "supporting expenditures" which, together with any "specialized expenditures" identified for such program will at least equal the total annual expenditures of Federal and required matching funds;

(2) Identify as "specialized expenditures" for such program an amount equal to 80 percent or more of the total annual expenditures of Federal and required matching funds for that program, provided the remaining 20 percent or less of such total expenditures were for purposes within the scope of the approved maternal and child health services plan.

§ 51a.123 Allotments.

(a) Prior to the beginning of each fiscal year the Secretary will prepare and make available to the several State agencies an estimated schedule of the amounts which it is expected will be allotted to each State during the fiscal year for each program.

(b) With respect to amounts determined to be available for any fiscal year for allotments for crippled children's services:

(1) One-half is allotted among the States in accordance with criteria specified in the Act. These funds are referred to as Fund A. Each State receives an allotment of $70,000 and such part of the amount remaining as the number of children under 21 in the State bears to the total number of such children in the United States. The number of children under 21 is used as the index of the number of crippled children, since adequate statistics on the number of crippled children are not available; and

(2) The other half is known as Fund B. From this fund, an amount determined by the Secretary is available to States and to nonprofit institutions of higher learnings for special projects for crippled children who are mentally retarded. From the remainder of Fund B, not less than 75 percent is apportioned among the States according to the need of each State for financial assistance in carrying out its State plan after taking into consideration the number of children under 21 years in each State and per capita income in each State. The apportionments vary directly with the number of children under 21 years of age in the State, and the number in rural areas of the State, with rural children given twice the weight of children in urban areas. The apportionments vary inversely with State per capita income. Depending upon the amount of funds available, a minimum amount is set by the Secretary below which a State's apportionment may not fall. Funds thus apportioned are allotted to States as needed. The remaining 25 percent or less of Fund B is reserved for grants to States and to nonprofit institutions of higher learning for special projects of regional or national significance which may contribute to the advancement of services for crippled children.

(c) With respect to amounts determined to be available for any fiscal year for allotments for maternal and child health services:

(1) One-half is allotted among the States by a formula specified in the law. These funds are referred to as Fund A. Each State receives an allotment of $70,000 and such part of the amount remaining as the number of live births in the State bears to the total number in the United States; and,

(2) The other half is known as Fund B. From this fund an amount determined by the Secretary is available to States and to nonprofit institutions of higher learning for special projects for mentally retarded children. From the remainder of Fund B, not less than 75 percent is apportioned among the States according to the need of each State for financial assistance in carrying out its State plan after taking into consideration the number of live births in each State and per capita income in each State. The apportionments vary directly with the number of live births in the State, and the number in rural areas of the State, with rural births given twice the weight of urban births. The apportionments vary inversely with State per capita income. Depending upon the amount of funds available, a minimum amount is set by the Secretary below which a State's apportionment may not fall. Funds thus apportioned are allotted to States as needed. The remaining 25 percent or less of Fund B is reserved for grants to States and to nonprofit institutions of higher learning for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

§ 51a.124 Submission of budgets by State agencies.

Prior to the beginning of each fiscal year, the State agency shall submit, upon official forms and in accordance with procedures established by the Secretary, an annual budget, appropriately documented and supported, providing for financial participation by the State and indicating the availability and sources of all funds to be expended under the State plan during such fiscal year.

§ 51a.125 Payments to States; effect of certification.

Neither the approval of the State plan nor any certification of funds or payment to the State pursuant thereto shall be deemed to waive the responsibility of the State to observe before or after such administrative action any Federal requirements or the right or duty of the Secretary to withhold funds by reason thereof.

§ 51a.126 Private funds.

Funds obtained from private sources and made fully available for expenditure by the State agency under the approved State plan may be included in the computation of the amounts of public funds expended. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law setting forth applicable procedures, the funds shall be deposited with the State Treasurer, the Treasurer of a political subdivision, or in a private depository, in a special account to the credit of the State agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished showing the deposit of such funds in a special account to the credit of the State agency.

§ 51a.127 Application of Federal funds; effect of State rules.

Except as specifically stated in the Act and in these regulations, State laws, rules, regulations, and standards governing the custody and disbursement of State funds shall govern the custody and disbursement of Federal funds paid to the State.

§ 51a.128 Custody of and accounting for Federal funds.

(a) The State Treasurer or official exercising similar functions for the State shall receive and provide for the custody of all funds paid to the State under the Act, subject to requisition or disbursement thereof by the State agency for State plan purposes.

(b) The State plan shall incorporate by reference such written fiscal control and fund accounting procedures as are necessary to assure the proper disbursement of and accounting for funds paid to the State under this subpart. Such procedures shall provide for an accurate and timely recording of receipts of Federal funds paid to the State for expenditures incurred or to be incurred under the approved plan, of the amounts and purposes of expenditures made in carrying out such plan and of any unearned balances of Federal funds paid to the State. In addition, such procedures must:

(1) Provide for the determination of allowability and the allocation of costs in accordance with Subpart Q of 45 CFR Part 74; and

(2) Provide adequate information to show exclusion from expenditures claimed for Federal participation of those costs for which payments have been received or are due under other Federal grants or contracts or which are required or used to match other Federal funds.

§ 51a.129 Withholding of payments.

No payment will be made from the allotments for maternal and child health or crippled children's services to any State;

(a) Which fails to make a satisfactory showing in documents incorporated by reference in the State plan that it is extending the provision of services under its plan with a view to making such services available in all parts of the State by July 1, 1975. Services which must be extended are those to which the State plan applies, including services for dental care for children and family planning for mothers.

(b) With respect to any amount paid for items or services furnished under the plan to the extent that such amount exceeds the charge level which is determined to be reasonable for such items or services, as follows:

(1) No charge for physician and dentist services may be determined to be reasonable in the case of bills submitted or requests for payment made under this part if it exceeds the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. The prevailing charge level may not exceed (in the aggregate) the level determined for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes.

(2) Charges for medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, incurred after December 31, 1972, and determined to be reasonable, may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality, except to the extent and under the circumstances specified by the Secretary.

(c) With respect to any amount paid for services furnished under the plan by a provider, or other person during any period of time if payment may not be made under Title XVIII of the Act with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary that such provider or person

(1) Has knowingly and willfully made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under Title XVIII of the Act or for use in determining the right to a payment under that title;

(2) Has submitted or caused to be submitted (except in the case of a provider of services) bills or requests for payment under Title XVIII of the Act containing charges (or in applicable cases requests for payment of costs to such person) for services rendered which the Secretary finds, with the concurrence of the appropriate program review team appointed pursuant to section 1862(d)(4) of the Act, to be substantially in excess of such person's customary charges (or in applicable cases substantially in excess of such person's costs) for such services, unless the Secretary finds there is good cause for such bills or requests for payment containing such charges (or in applicable cases, such costs); or

(3) Has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team (appointed pursuant to section 1862(d)(4) of the Act) who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

(d) To reimburse health care facilities and health maintenance organizations for services to the extent that such reimbursement supports capital expenditures made by or on behalf of such facilities or organizations which the Secretary has, pursuant to section 1122 of the Act, determined to exclude from reimbursement expenses related to such capital expenditures.

§ 51a.130 Maintenance of effort.

The amount payable to any State under the regulations in this part for any fiscal year ending after June 30, 1968, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum expended from such sources for such services for the fiscal year ending June 30, 1968. In case of any such reduction the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable to the State under these regulations.

§ 51a.131 Merit system.

The State plan shall provide for the establishment and maintenance of personnel standards on a merit basis for persons employed by the State agency and by official local agencies to provide or supervise the provision of maternal and child health and crippled children's services under the approved State plan, and of State agency supervision of compliance with such standards by official local agencies. Conformity with Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Health, Education, and Welfare, including any amendments thereto, and any standards prescribed by the United States Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (Public Law 91-648; 84 Stat. 1915) modifying or superseding such Standards, will be deemed to meet this requirement as determined by said Commission. Laws, rules, regulations, and policy statements, and amendments thereto, effectuating such methods of personnel administration shall be incorporated by reference in the State plan.

§ 51a.132 Nondiscrimination.

Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252), which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which applies to grants made under this subpart, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). Such regulation is applicable to services and programs provided under section 501-507 of the Act, and requires receipt and acceptance by the Secretary of the applicable documentation set forth therein.

§ 51a.133 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this subpart.

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